

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
SPRINTCOM, INC. WIRELESSCO, L.P.)
NPCR D/B/A NEXTEL PARTNERS AND)No. 12-0550
NEXTEL WEST CORP)
)
Petition for Arbitration,)
Pursuant to Section 252(b) of)
the Telecommunication Act of)
1996, to Establish an)
Interconnection Agreement with)
)
Illinois Bell Telephone Company)
d/b/a Ameritech Illinois)

Chicago, Illinois

February 26th, 2013

Met, pursuant to notice, at 10:00 a.m.

BEFORE :

MS. LESLIE HAYNES, Administrative Law Judge
MS. HEATHER JORGENSEN, Administrative Law Judge

APPEARANCES:

ILLINOIS COMMERCE COMMISSION

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1			I N D E X			
2				Re-	Re-	By
	Witnesses:	Direct	Cross	direct	cross	Examiner
3	James Burt	50				
			43			
4			70			
				75		
5	Mark Felton	79				
			85			
6			109			
			147			
7				161		
				178		
8	Randy Fararr	184				
			191			
9			197			
			286			
10	Kent Currie	291				
			293			
11			331			
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						

1		E X H I B I T S	
2	Number	For Identification	In Evidence
3	Sprint Exhibit 1.0	50	53
4	Sprint Exhibit 4.0	52	53
5	Staff Exhibit 3.0	71	
6	Sprint Exhibit 2.0	81	84
7	Sprint Exhibit 5.0	82	84
8	AT&T Cross Exhibit 1	102	
9	Sprint RDX Exhibit 1.0	183	183
10	Sprint Exhibit 3	185	191
11	Sprint Exhibit 6.0	187	191
12	AT&T Exhibit 6.0	292	292
13	Sprint Cross Exhibit 2	318	327
14	Sprint Cross Exhibit 3	327	327
15	Sprint Cross Exhibit 4	329	329
16			
17			
18			
19			
20			
21			
22			

1 JUDGE HAYNES: Good morning.

2 Pursuant to the direction of the Illinois Commerce
3 Commission, I now call Docket 12-0550. This is
4 Sprintcom, Inc., Wirelesco L.P., NPCR, Inc. d/b/a
5 Nextel Partners and Nextel West Corp. Petition
6 for arbitration pursuant to Section 252(b) of the
7 Telecommunications Act of 1996 to establish an
8 interconnection agreement with Illinois Bell
9 Telephone Company.

10 Can I have appearances for the
11 record, please, starting with Sprint? Good
12 morning.

13 MR. RASHES: Good morning, your
14 Honor. Harold C. Rashes of the law firm Clark
15 Hill, PLC, 212 East Grand River Avenue, Lansing,
16 Michigan 48906 on behalf of the petitioners:
17 Sprintcom, Inc., Wirelesco L.P., NPCR, Inc. d/b/a
18 Nextel Partners and Nextel West Corp.

19 MR. SCHIFMAN: Good morning. Ken
20 Schifman on behalf of the Sprint entities
21 identified by Mr. Rashes. My address is 6450
22 Sprint Parkway, Overland Park, Kansas 66251.

1 MR. PFAFF: Good morning. This is
2 Jeff Pfaff on behalf of the Sprint entities. My
3 address is 6450 Sprint Parkway, Overland Park,
4 Kansas 66251.

5 MR. CHIARELLI: Good morning. This
6 is Joe Chiarelli. I'm also appearing on behalf of
7 the Sprint entities and my address is also 6450
8 Sprint Parkway, Overland Park, Kansas.

9 MR. ANDERSON: On behalf of AT&T
10 Illinois, Karl Anderson and Mark Ortlieb, 225 West
11 Randolph, Floor 25D, Chicago, Illinois 60606. My
12 phone number is (312) 727-2928. Mr. Ortlieb's
13 number is (312) 727-6705.

14 MR. FRIEDMAN: Also on behalf of
15 AT&T Illinois, Dennis Friedman, Mayer Brown, LLP,
16 71 South Wacker Drive, Chicago 60606.

17 MS. SWAN: On behalf of the staff of
18 the Illinois Commerce Commission, Kimberly Swan,
19 Michael Lannon and Christine Ericson, 160 North
20 LaSalle Street, Suite C-800, Chicago, Illinois
21 60601.

22 JUDGE HAYNES: Are there any further

1 appearances? Thank you. We have a phone
2 connection with Springfield and in order for the
3 staff witnesses in Springfield to hear, I will
4 have to ask parties to speak into the microphone.
5 Otherwise, they won't hear you.

6 We have a preliminary matter
7 this morning. We'll start with Sprint witnesses.
8 Sprint has a motion to appear pro hoc vice for
9 Mr. --

10 MR. CHIARELLI: Chiarelli.

11 JUDGE HAYNES: Is there any
12 objection to that motion?

13 MR. LANNON: No objection.

14 MR. ANDERSON: No objection.

15 JUDGE HAYNES: That motion is
16 granted. Is there anything else that we need to
17 talk about?

18 MR. ANDERSON: I have one
19 preliminary procedural housekeeping matter which
20 relates to direct testimony. It's often normal
21 for the witness presenting it -- or the attorney
22 presenting the witness to go through a litany of

1 questions establishing who the witness is and
2 whether they're here to present direct testimony
3 and to save time I would offer or propose that we
4 dispense with that and we simply go straight to
5 the cross examination of each witness.

6 JUDGE HAYNES: Is there any
7 objection to that process?

8 MR. ANDERSON: Obviously, if there
9 are corrections, they should be noted before the
10 cross-examination begins.

11 JUDGE HAYNES: You know what, we
12 would like you to go through the whole who you
13 are, who you work for, yada, yada, yada. Thank
14 you.

15 MR. SCHIFMAN: One other preliminary
16 matter, your Honor's, we got an e-mail last week
17 about the way cross-examination in defending the
18 parties was suggested. AT&T suggested that they
19 were going to cross a witness on a per issue
20 basis. So, in other words, multiple attorneys
21 could cross examine the same witness. Sprint
22 believes that -- and also they said on the

1 defending side multiple attorneys could defend a
2 witness and ask questions on redirect.

3 We think that could lead to some
4 areas of confusion and especially on the defense
5 and the redirect portion of it we would suggest
6 that one attorney be responsible for defending a
7 particular witness and asking the questions on
8 redirect and then also on cross once -- if you're
9 going to agree with AT&T's suggestion to allow
10 that to happen, if you do, we would suggest that
11 once an attorney finishes crossing on a particular
12 issue, then he is done for that witness.

13 He can't come back after another
14 attorney crosses on another set of issues and then
15 Attorney 1 comes back and says "Oh, I forgot a few
16 questions. I'm going to come back and ask some
17 more." We didn't prepare that way. We just
18 prepared one witness -- one attorney per witness.
19 So we just want to make sure that it runs fairly
20 throughout the proceeding here.

21 MR. ANDERSON: Just on behalf of
22 AT&T Illinois for Sprint witness Burt we will have

1 one attorney asking all the questions. For
2 Mr. Felton and Mr. Fararr, we have divided up
3 cross-examination based on the specific issue. So
4 one attorney -- we would intend for one attorney
5 to cross examine on a discreet set of issues or a
6 portion of the testimony. The next attorney would
7 cross-examination on other portions of the
8 testimony. Neither attorney will cross on the
9 other attorney's portion of the testimony. There
10 shouldn't be any confusion. We will not go back
11 and forth. We will simply have one attorney ask
12 questions followed by the next attorney and that
13 will be that.

14 This is not an unusual practice.
15 I've seen it done before particularly in a case of
16 this complexity where, you know, responsibility
17 for issues may be divided among attorneys and it
18 may not line up with the way that the other party
19 presented their testimony in their case. So I
20 don't expect there to be any problems. I don't
21 expect there to be any overlap. So that's how we
22 would intend to proceed. Thank you.

1 JUDGE HAYNES: What if it is your
2 witness, would it just be one AT&T attorney?

3 MR. ANDERSON: We will have one
4 attorney defending the witness. On redirect, we
5 did think that if there is any clearly redirect
6 related to discreet issues that we may divide that
7 up. We don't know how that is going to obviously
8 turn out at this point, but certainly as our
9 witnesses are presented we will have one attorney
10 responsible for making objections rather than
11 tag-teaming in that sense.

12 JUDGE HAYNES: Staff?

13 MR. LANNON: Yes, your Honor. In
14 our mind, this is an issue of adequate
15 representation of our clients, staff. Now, early
16 on, staff gets assigned and they get assigned to
17 issues and then we assign attorneys to individual
18 staff members and then they follow the evolution
19 of each of those issues. So we are contemplating
20 Mr. Farrar breaking his cross up into two pieces.

21 One on he testifies regarding
22 the market and one on everything else. Now, there

1 is also an outside possibility that we do the same
2 with Albright. We're not sure at this time, but
3 we don't have any problem with one attorney
4 defending, one attorney doing any redirect and we,
5 like AT&T, don't really see an issue with the
6 cross being done by two lawyers because the issues
7 are going to be discreet and separated and we will
8 not go back and forth either. Once we're done on
9 an issue, we're done.

10 MR. SCHIFMAN: Okay.

11 MR. FRIEDMAN: If I may just add,
12 you may have a decision, but if I might add,
13 frankly, the only area that really seems to be --
14 there seems to be a difference is on redirect and
15 I would just point out as a practical matter that
16 if it should turn out that Karl Anderson and I
17 both have questions for a Sprint witness, the
18 alternative to what we're proposing would be let's
19 say Karl is going to ask questions on his issues
20 and then we have me whispering questions in his
21 ear on the other issues, which doesn't make a lot
22 of sense.

1 JUDGE HAYNES: I think we agree it
2 makes sense that, you know, obviously what issues
3 attorneys have been working on to allow that
4 attorney to cross examine the witness with the
5 understanding that there will be no back and
6 forth. Once an attorney is done, they're done
7 with the cross and the redirect I guess will --
8 our preference is one attorney per witness, but
9 maybe we'll see how it goes.

10 MR. ANDERSON: Thank you.

11 JUDGE HAYNES: Okay. So Mr. Burt
12 first?

13 MR. SCHIFMAN: Yes. Sprint calls
14 James R. Burt.

15 JUDGE HAYNES: Could you please
16 raise your right hand?

17 WHEREUPON:

18 JAMES BURT
19 called as a witness herein, having been first duly
20 sworn, deposeth and saith as follows:

21

22

1 D I R E C T E X A M I N A T I O N

2 BY MR. SCHIFMAN

3 Q. Please state your name for the
4 record.

5 A. James R. Burt, B-U-R-T.

6 Q. And what is your position, Mr. Burt?

7 A. Director of policy.

8 Q. Whom are you employed by?

9 A. Sprint United Management Company.

10 Q. Mr. Burt, did you file or cause to
11 be filed a verified written statement on December
12 5th, 2012, it's in question and answer format, it
13 looks like it is numbered Sprint Exhibit 1.0, 69
14 pages and it also has a series of exhibits
15 attached to it JRB 1.1 through JRB 1.8?

16 (Document marked as Sprint
17 Exhibit No. 1.0 for
18 identification.)

19 BY THE WITNESS:

20 A. Yes, I did.

21 BY MR. SCHIFMAN:

22 Q. And are those -- do you have those

1 exhibits and testimony in front of you?

2 A. Yes, I do.

3 Q. Okay. And do the exhibits look to
4 be true and accurate copies of what we pre-filed?

5 A. Yes.

6 Q. Okay. And, Mr. Burt, do you have
7 any corrections to your testimony?

8 A. I have one.

9 Q. Please identify.

10 A. On page 54, line number 1202, there
11 is a reference to a section of the contract. It
12 says Section 91.1. It should read 9.1.

13 Q. And do you have any other
14 corrections to your direct testimony?

15 A. No.

16 Q. Okay. And if I asked you the same
17 questions that appear in Sprint Exhibit 1.1, would
18 your answers be the same today?

19 A. Yes.

20 Q. Okay. All right. So then,
21 Mr. Burt, did you also cause to be filed a
22 supplemental verified written statement on

1 February 12th, 2013, labeled Sprint Exhibit 4.0?

2 A. Yes, I did.

3 (Document marked as Sprint
4 Exhibit No. 4.0 for
5 identification.)

6 BY MR. SCHIFMAN:

7 Q. And it's in question and answer
8 format, correct?

9 A. Yes, it is.

10 Q. And it's 73 pages, is that right?

11 A. Yes, 73 pages.

12 Q. And you have one exhibit attached to
13 that testimony, it's Exhibit JRB 4.1?

14 A. Yes.

15 Q. Okay. And if I asked you the same
16 questions as contained in Sprint Exhibit 4.0 that
17 are -- if I asked you those same questions today,
18 would your answers be the same?

19 A. Yes.

20 Q. Okay. Did you have any corrections
21 to your supplemental verified statement, your
22 rebuttal testimony?

1 A. No.

2 MR. SCHIFMAN: So let's move into
3 the record then Sprint Exhibit's 1.0 with
4 Exhibit's JRB 1.1 through 1.8 and then also Sprint
5 Exhibit 4.0 with Exhibit JRB 4.1.

6 JUDGE HAYNES: Is there any
7 objection to admitting those exhibits into the
8 record?

9 MR. FRIEDMAN: No objection.

10 MS. SWAN: No objection.

11 JUDGE HAYNES: Those exhibits as
12 previously filed on E-docket are admitted.

13 MR. SCHIFMAN: We tender Mr. Burt
14 for cross examination.

15 JUDGE HAYNES: Thank you.

16 C R O S S E X A M I N A T I O N

17 BY MR. FRIEDMAN

18 Q. Good morning, Mr. Burt. Dennis
19 Freidman, again. How are you?

20 A. Good morning.

21 Q. One of the issues that you testify
22 about is the deposit provisions that should be

1 included in the interconnection agreement,
2 correct?

3 A. Correct.

4 Q. And another issue is whether there
5 should be an escrow provision in the event that a
6 party disputes a bill?

7 A. Correct.

8 Q. And you're aware that in connection
9 with both of those issues, AT&T Illinois'
10 witnesses encourage the Commission to take into
11 consideration the fact that other carriers may
12 adopt the interconnection agreement that emerges
13 from this proceeding, right?

14 A. I'm aware of that, yes.

15 Q. And you talk some about that, right,
16 in your testimony? So let me direct you to your
17 rebuttal testimony or your supplemental verified
18 statement at page 47. Starting on line 1064. Are
19 you there?

20 A. Yes, I am.

21 Q. And, in short, the view that you
22 express there is that the Commission in

1 resolving -- in this case, you're talking about
2 the deposit issue and resolving that issue should
3 really just focus exclusive on the two parties to
4 the arbitration and should not take into account
5 the possibility that other carriers may adopt this
6 agreement, correct?

7 A. Yes, it is Sprint's position that
8 this is an arbitration between us and Sprint.
9 Not -- I'm sorry. Between AT&T and Sprint, not
10 between AT&T and the entire industry, yes.

11 Q. And are you aware that the staff of
12 the Illinois Commerce Commission has taken a
13 position different from yours and has advocated
14 the view that it actually makes sense for the
15 Commission to take into consideration MFM
16 possibilities when it's arbitrating issues?

17 A. Yes.

18 Q. And that was in the -- that staff's
19 position was reported in the Commission's
20 arbitration decision in the MCI Illinois Bell
21 arbitration 2004 Docket No. 04-0469, does that
22 sound right?

1 A. If you have that.

2 Q. (Hanging.)

3 A. Thank you.

4 Q. Do you have an excerpt from that
5 decision in front of you?

6 A. Yes, I do now.

7 Q. And if I direct your attention to
8 page 15, are you there?

9 A. Yes.

10 Q. You see the second full paragraph
11 begins with the sentence "In addition, staff
12 concurs in the proposition that SBC must establish
13 deposit standards that will not negatively impact
14 it if and when other carriers seek to opt into the
15 ICA"?

16 A. I see that, yes.

17 Q. And you disagree?

18 A. Yes.

19 Q. Okay. Also, on page -- still on
20 page 47 of your testimony you talk some about
21 Section 252(e) of the Telecommunications Act of
22 1996. That is the subsection that addresses the

1 standards a state commission is supposed to apply
2 when it receives an interconnection agreement for
3 approval or rejection and it's deciding whether to
4 approve or reject, correct?

5 A. Yes, I would assume so.

6 Q. Now, when the Commission is deciding
7 what the deposit provisions our interconnection
8 agreement should include, would you agree with me
9 that the standard that is supposed to apply is
10 that the provision should be just, reasonable and
11 nondiscriminatory in the language of Section
12 251(c)(2) of the '96 Act?

13 A. (c)(2), that would be with respect
14 to interconnection.

15 Q. (c)(2) says that terms and
16 conditions for interconnection should be just,
17 reasonable and nondiscriminatory, correct?

18 MR. SCHIFMAN: I'll object. I think
19 the statute will speak for itself.

20 BY MR. FRIEDMAN:

21 Q. Are you aware of that? If you don't
22 know that --

1 JUDGE HAYNES: You can answer if
2 you're aware of it.

3 BY THE WITNESS:

4 A. I believe those words are in that
5 section as it pertains to interconnection. I
6 don't believe those words specifically talk about
7 deposits. It talks about interconnection.

8 BY MR. FRIEDMAN:

9 Q. Understood. But would you agree
10 with me that when the Commission is trying to
11 decide whose deposit provisions to adopt or some
12 other set of provisions, the question that it
13 should ask itself is what provisions would be
14 just, reasonable and nondiscriminatory?

15 A. I think you have to look at all
16 three of those words. What is just, what is
17 reasonable and nondiscriminatory.

18 Q. Okay. And is there any --

19 A. And from Sprint's perspective, you
20 can't just look at what I think you're getting at
21 is nondiscriminatory meaning everybody has to be
22 treated the same. We think that our language is

1 just. We think our language is reasonable. We
2 think that included in our language you can
3 address the situations with other carriers if they
4 are not similarly situated to Sprint.

5 Q. Now, you speculated about where I
6 was headed and as it happened you guessed wrong
7 because what I was actually going to ask you was
8 this. You are not aware, are you, of anything in
9 the '96 Act or any FCC order or rule that says
10 that when a state commission is deciding what
11 terms and conditions are just, reasonable and
12 nondiscriminatory it cannot take into account the
13 possibility that the interconnection agreement may
14 be adopted by other carriers? You're not aware of
15 any such authority, are you?

16 A. Could you rephrase it, please?

17 Q. Sure. And let me help you
18 understand why I'm asking the question in that
19 way. In your testimony on the bottom of page 47,
20 you point out that Section 252(e)(2) doesn't say
21 certain things, right?

22 A. Correct.

1 Q. All right. Along the same lines
2 there is nothing in the '96 Act, is there, and
3 there is nothing in any FCC rule or order, is
4 there, that says when a state commission is
5 deciding what terms are just, reasonable and
6 nondiscriminatory that the state commission should
7 not take into account the MFM possibility?

8 A. I can't answer that question. In
9 the last --

10 Q. The question is are you aware of any
11 such --

12 A. I'm not aware of anything, but as we
13 all know there have been thousands and thousands
14 of pages in the last nearly, what, 17 years. I
15 can't claim to know what is in there and what is
16 not in there.

17 Q. Would you turn to your rebuttal at
18 page 62 starting on line 1406 and let me ask a
19 couple preliminary questions just to set the
20 context here.

21 A. I'm sorry. I'm trying to find it.

22 Q. On page 62, we're talking about

1 deposits and we're talking about the circumstances
2 under which a deposit may be required and one
3 circumstance under discussion is that a deposit
4 might be required if a carrier, Sprint in this
5 case, has not established 12 consecutive months
6 good payment history, correct, that's one of the
7 candidates?

8 A. Yes.

9 Q. All right. And if I understand the
10 concern that you're expressing here on the top of
11 page 62, your concern is that when we come out of
12 this proceeding and we have a new interconnection
13 agreement and it allows AT&T Illinois to demand a
14 deposit if Sprint doesn't have 12 months
15 consecutive good payment history, your concern is
16 that AT&T might say 'Oh, we're starting over now
17 because this is a new agreement" and you don't
18 want that to happen, correct?

19 A. Yes.

20 Q. Did our witness, Greenlaw, who talks
21 about deposits, say anything that made you
22 concerned that AT&T may take that position?

1 A. Well, did he say anything? I don't
2 recall, but the concern is with the language and
3 what potential exists based on the language.

4 Q. How about if I make it to you now a
5 binding representation on behalf of AT&T Illinois
6 that if we have a trigger that allows us to demand
7 a deposit from you if you do not have 12 months
8 consecutive good payment history AT&T Illinois
9 will not take the position that you have to start
10 all over when you have a new agreement and if you
11 have 8 or 10 or 12 months good payment history on
12 the effective date of the new agreement you'll get
13 the benefit of that, does that take care of your
14 concerns? That's my question.

15 MR. SCHIFMAN: Let me interject here
16 real quick. Is that something that AT&T will put
17 in language in the agreement or is that something
18 that Dennis is saying at the hearing?

19 BY MR. FRIEDMAN:

20 Q. I don't want to get into a debate
21 really. I'm making a representation to you on
22 behalf of AT&T Illinois as I'm authorized to do

1 and I'm asking you if that alleviates your
2 concern?

3 A. I would have to confer with the
4 attorneys and I think we would prefer to see
5 something in writing and I guess I can't say one
6 way or the other. I'll have to confer with the
7 attorneys and see what you have to offer.

8 Q. We have a disagreement, don't we,
9 about -- let me start in a different way. If
10 there is going to be a deposit, one form the
11 deposit might take would be a letter of credit,
12 correct?

13 A. Correct.

14 Q. And we have an agreement about the
15 form of the letter of credit that should be used
16 by a party who is providing a letter of credit,
17 correct?

18 A. Correct.

19 Q. And let me address your attention --
20 direct your attention to your rebuttal testimony
21 at page 45 starting on line 1019. Are you there?

22 A. Yes, I am.

1 Q. Am I correct that you are responding
2 here to AT&T's direct testimony, the testimony of
3 Mr. Greenlaw, where he pointed out that Sprint in
4 its direct testimony had not said anything about
5 why it doesn't like AT&T's form? That's the
6 context here, right?

7 A. Yes.

8 Q. And you say "Sprint cannot -- AT&T
9 has never shared a letter of credit form with
10 Sprint. Sprint cannot comment on a document that
11 either does not exist or does exist, but has never
12 been shared with Sprint," right?

13 A. Correct.

14 Q. Do you know that there was discovery
15 in this case, data requests?

16 A. Yes.

17 Q. And you know that Sprint directed 33
18 data requests at AT&T Illinois?

19 A. I'll accept that as the number.

20 Q. You know that Sprint could have
21 asked for the letter of credit form, there wasn't
22 any reason it couldn't, right?

1 A. I guess we could have asked.

2 Q. And you didn't, right?

3 A. I guess AT&T could have offered.

4 Q. You could have asked, but you
5 didn't, correct?

6 A. Correct.

7 Q. I want to direct your attention now
8 to your direct testimony and the subject is the
9 escrow requirement. That is the general subject.
10 On page 60 starting at line 1332.

11 MR. SCHIFMAN: What page?

12 MR. FRIEDMAN: Page 60 of the direct
13 starting at line 1332 and continuing through 1341.

14 BY MR. FRIEDMAN:

15 Q. In a general sense, you are there
16 offering a certain FCC decision in support of
17 Sprint's opposition to an escrow requirement,
18 correct?

19 A. Correct.

20 Q. Now, in the case, the FCC decision
21 that you cite, the FCC found a certain tariff
22 provision unreasonable, right?

1 A. Yes. The paragraph that I'm
2 referring to, yes.

3 Q. The tariff provision that the FCC
4 found unreasonable did not involve an escrow
5 requirement, did it?

6 A. There is no reference here in this
7 paragraph, no.

8 Q. Let me hand around the decision that
9 you were citing and we'll take a minute until
10 everyone has got it. So we're handing around and
11 you have in front of you, Mr. Burt, an FCC
12 decision released July 18th, 2011, in the matter
13 of Sprint Communications Company v. Northern
14 Valley Communications. This is the FCC decision
15 you're talking about in your testimony, right?

16 A. Yes.

17 Q. And it doesn't have anything to do
18 with an escrow requirement, does it?

19 A. Not directly. We think that the
20 order, though --

21 JUDGE HAYNES: I can't hear. Can
22 you make sure your mic --

1 THE WITNESS: I'm sorry.

2 BY THE WITNESS:

3 A. We think the order, though, is on
4 point with the issue of escrow.

5 BY MR. FRIEDMAN:

6 Q. Well, the tariff provision that the
7 FCC found unreasonable in this case required a
8 billed party to pay in full, not to escrow, but to
9 pay in full all bills whether or not it wanted to
10 dispute them, correct?

11 A. Yes.

12 Q. And one thing the FCC said it was
13 bothered about was the fact that the tariff
14 provision, and I'm going to quote now, "Requires
15 everyone to who Northern Valley sends an access
16 bill to pay that bill no matter what the
17 circumstances, including, for example, if no
18 services were provided at all," that bothered the
19 FCC, right?

20 A. Right. So whether or not there was
21 a dispute, you have to pay the money which is, in
22 effect, an escrow whether it's disputed or not.

1 Q. So you say that whether or not you
2 pay us one hundred percent or you pay us part and
3 escrow the rest, that's the same thing in your
4 mind?

5 A. From Sprint's perspective, it's the
6 same thing. We're paying the money on a disputed
7 amount.

8 Q. Now, in the case that you cite, all
9 bills had to be paid in full. No exceptions,
10 right?

11 A. I believe that's what the tariff
12 indicates.

13 Q. What AT&T is proposing by way of an
14 escrow provision would not require Sprint to
15 escrow all disputed amounts, would it?

16 A. Well, could you clarify that?

17 Q. Sure. If our escrow language is
18 adopted, you would not have to escrow reciprocal
19 compensation bills that you dispute, right?
20 That's excluded?

21 A. There will be no reciprocal
22 compensation with bill-and-keep. So it's a

1 nonissue.

2 Q. You don't have to dispute any amount
3 under \$15,000, right?

4 A. I don't have that language in front
5 of me, but if that's the number.

6 Q. And you don't have to escrow
7 anything if you're disputing less than ten percent
8 of a bill and you have a good payment history,
9 right?

10 A. Again, I don't have that language,
11 but I'll accept that as the language.

12 Q. And you don't have to escrow amounts
13 that you're billed in error because of, for
14 example, a clerical error or arithmetic error,
15 correct?

16 A. Again, I don't have that in front of
17 me, but I'll accept it.

18 MR. FRIEDMAN: No further questions.
19 Thank you.

20 JUDGE HAYNES: Staff, do you have
21 cross?

22 MS. SWAN: We have cross, very short

1 cross. Sorry. This is a little awkward with our
2 positioning.

3 C R O S S E X A M I N A T I O N

4 BY MS. SWAN

5 Q. Good morning. My name is Kimberly
6 Swan. I'm representing the staff of the Illinois
7 Commerce Commission.

8 A. Good morning.

9 Q. I really don't have very many
10 questions. Some of my questions were already
11 asked, but I will first point you to your
12 supplemental verified written statement page 62.
13 Do you have that in front of you?

14 A. Yes, I do.

15 Q. On lines 1422 through 1423, you
16 state that you agree that, quote, Mr. Omoniyi is
17 correct that the deposit provision should apply
18 bilaterally and should be based upon payment
19 history under the agreement, end quote, do you see
20 that?

21 A. Yes.

22 Q. Now, I'm just a little bit confused

1 as to what you mean. So let me explain why I'm
2 confused. First, you say you agree with
3 Mr. Omoniyi, but then you indicate that
4 Mr. Omoniyi said that deposit requirements should
5 be based on payment history under the agreement.
6 The confusing part to me is I don't think
7 Mr. Omoniyi indicates that payment history that he
8 believes should be considered is limited to the
9 payment history under the agreement. Do you have
10 Mr. Omoniyi's testimony with you today?

11 A. I do not.

12 (Document marked as Staff
13 Exhibit No. 3.0
14 For identification.)

15 BY MS. SWAN:

16 Q. I'm going to hand you, and everyone
17 in the room, an excerpt from Mr. Omoniyi's direct
18 testimony which is pre-filed as Staff Exhibit 3.0
19 and in your testimony you indicate that
20 Mr. Omoniyi said this on page 14 and you indicate
21 line 304, which is the beginning of the paragraph,
22 but I would point you to lines 311 through 313.

1 A. Can you give me a chance to read
2 this?

3 Q. Sure.

4 A. Thank you.

5 MR. SCHIFMAN: Ms. Swan, just one
6 second. What page are you on on Mr. Burt's
7 testimony?

8 MS. SWAN: In Mr. Burt's testimony,
9 page 62.

10 MR. SCHIFMAN: Of his rebuttal?

11 MS. SWAN: Yes. Line 1420 he
12 indicates that Mr. Omoniyi -- his opinion on page
13 14 of Mr. Omoniyi's direct line 304.

14 MR. SCHIFMAN: Thanks.

15 BY THE WITNESS:

16 A. I've read it.

17 BY MS. SWAN:

18 Q. Now that you've had a chance to
19 review it and refresh your memory, can you point
20 me to where Mr. Omoniyi indicated what you said he
21 indicated?

22 A. You're referring to 1422, in my line

1 1422?

2 Q. That's correct. Specifically, I
3 guess 1423 based on the history under the
4 agreement.

5 A. Okay. I guess he didn't use the
6 same words that I used.

7 Q. Okay. I think Mr. Omoniyi -- and
8 I'll point you to line 311 through 313. I think
9 this is what you were referring to. Mr. Omoniyi
10 said, quote, a billing party should only be able
11 to request a deposit of a billed party if the
12 billed party has fewer than 12 consecutive months
13 prompt payment history with the billing party, is
14 that correct?

15 A. Yes, that's what he says.

16 Q. So Mr. Omoniyi does not limit the
17 payment history that he thinks should be
18 considered in his recommendation to only the
19 payment history under this agreement, is that
20 correct?

21 A. I guess technically, yes, if you
22 don't take into account that the agreement here is

1 going to be a brand new agreement and technically
2 pursuant to this agreement there may be no
3 history, but if you just consider the fact that we
4 have paid our invoices for the previous 12 months
5 regardless of the agreement, then I think that's
6 what he is saying probably.

7 Q. Do you see any indication that
8 Mr. Omoniyi thinks there's a technicality or
9 limitation?

10 A. No, he does not say that.

11 Q. Would you agree with Mr. Omoniyi's
12 recommendation that the entire payment history,
13 including all payment history in past contracts,
14 should be taken into consideration?

15 A. Yes.

16 Q. So would you object to Sprint's
17 entire payment history including all payment
18 history being taken into consideration in all
19 context considering payment history in this
20 agreement?

21 A. I don't have any reason to object to
22 all of the payment history being considered, no.

1 MR. SCHIFMAN: Jim, you need to move
2 the microphone.

3 THE WITNESS: Sorry again.

4 MR. SCHIFMAN: When you're speaking
5 to Ms. Swan --

6 THE WITNESS: Yes, I'm sorry. I'm
7 trying to get it all situated here.

8 MS. SWAN: Actually, I think this
9 will be remedied quite soon. That was the end of
10 my questioning. Thank you very much.

11 JUDGE HAYNES: Do you have redirect?

12 MR. SCHIFMAN: Yes, a couple
13 questions.

14 JUDGE HAYNES: Go ahead.

15 R E D I R E C T E X A M I N A T I O N

16 BY MR. SCHIFMAN

17 Q. Mr. Burt, Mr. Friedman asked you
18 about the form -- the letter of credit form that
19 was to be used. I believe that was issue 60 and
20 he asked you whether or not Sprint sought such a
21 form from AT&T in discovery, do you recall that?

22 A. Yes.

1 Q. What -- have you ever seen a form
2 from AT&T as far as which letter of credit form
3 should be utilized in this part of this contract
4 language?

5 A. I haven't and, to my knowledge,
6 Sprint has not seen a form.

7 Q. Okay. And, to your knowledge, did
8 AT&T offer to provide that form?

9 A. Not to my knowledge.

10 Q. Okay. Mr. Friedman also asked you
11 some questions related to escrow and some of the
12 exclusions from escrow in the contract language I
13 believe relating to a dispute of less than \$15,000
14 or if reciprocal compensation is excluded.

15 I believe you had an answer
16 regarding reciprocal compensation being excluded.
17 Can you elaborate on that a little bit further
18 especially discussing whether reciprocal
19 compensation is even included in this agreement?

20 A. He did mention reciprocal
21 compensation as one of the exclusions or -- my
22 response basically was this agreement would be

1 bill-and-keep. So it's really not applicable at
2 all.

3 Q. So the fact that reciprocal
4 compensation is excluded from an escrow provision
5 doesn't have any impact at all on this agreement?

6 A. That would be my understanding, yes.

7 Q. Okay. What about the other
8 exceptions that AT&T mentioned, does that help
9 Sprint's concerns regarding the escrow provisions
10 in the agreement?

11 MR. FRIEDMAN: I object to this
12 question as being beyond the scope and would
13 remind the ALJ's that the cross examination was
14 focused narrowly on a distinction between a case
15 that Sprint cited purportedly for the proposition
16 that the FCC somehow supports this view in
17 distinguishing that case where there were no
18 limitations from this case. I did not try to make
19 the point -- any point with the witness about the
20 extent to which that should or should not
21 ameliorate his concerns and I don't think it
22 should be used as a platform for a speech about

1 Sprint's position on escrow.

2 MR. SCHIFMAN: Well, Mr. Freidman
3 did open the door with respect to these provisions
4 and the agreement, asked him if there were certain
5 exceptions and, you know, how that applies to the
6 agreement. So I believe Mr. Burt has the
7 opportunity on redirect to explain whether or not
8 those exceptions are applicable here and what
9 Sprint's views are on that exception.

10 JUDGE HAYNES: Overruled. Go ahead.
11 You can answer.

12 BY THE WITNESS:

13 A. The issue for Sprint is whether or
14 not escrow is required when there is a dispute.
15 Not whether or not there are any exceptions based
16 on dollar amounts. Sprint's position is no escrow
17 should be required on disputes, period.

18 MR. SCHIFMAN: No further questions.

19 JUDGE HAYNES: Thank you. Thank
20 you, Mr. Burt. Could you raise your right hand?

21

22

1 WHEREUPON:

2 MARK FELTON

3 called as a witness herein, having been first duly

4 sworn, deposeth and saith as follows:

5 D I R E C T E X A M I N A T I O N

6 BY MR. PFAFF

7 Q. Could you state your name, please?

8 A. My name is Mark G. Felton, F, as in
9 Frank, E-L-T-O-N.

10 Q. And who are you here on behalf of?

11 A. I'm appearing on behalf of Sprint.

12 Q. And what is your position with
13 Sprint?

14 A. I'm a contracts negotiator.

15 Q. Can you provide your address,
16 please?

17 A. My address is 6450 Sprint Parkway,
18 Overland Park, Kansas 66251.

19 Q. Do you have before you your verified
20 written statement and your supplemental verified
21 written statement?

22 A. I do.

1 Q. Were those prepared -- did you file
2 or cause those to be filed?

3 A. I did.

4 Q. And are they dated December 5th,
5 2012, in question and answer format?

6 A. My verified written statement is
7 dated December 5th.

8 Q. Yes, I'm sorry. Just your verified
9 written statement and that number is 64 pages, not
10 including the cover sheet and verification?

11 A. Actually, there was a numbering
12 issue and it's actually 62 pages, not including
13 the cover sheet.

14 Q. I think it's 64 pages. It started
15 out being 62 pages and turned into 64.

16 A. You are correct. You are correct.
17 It's around 62 or 64.

18 MR. ANDERSON: Are you talking about
19 his direct testimony?

20 MR. PFAFF: Yes.

21 MR. ANDERSON: Mine says 59. No.
22 I'm sorry. I apologize.

1 BY MR. PFAFF:

2 Q. Is that marked Exhibit 2.0?

3 A. It is.

4 (Document marked as Sprint
5 Exhibit No. 2.0 for
6 identification.)

7 BY MR. PFAFF:

8 Q. Were there any exhibits to your
9 verified written statement?

10 A. No.

11 Q. Do you also have before you your
12 supplemental verified written statement?

13 A. Yes.

14 Q. Is that dated February 12th, 2013?

15 A. Yes, it is.

16 Q. And it's totaling 59 pages, not
17 including the cover sheet and verification --

18 A. Yes.

19 Q. -- labeled Exhibit 5.0?

20 A. Yes.

21

22

1 (Document marked as Sprint
2 Exhibit No. 5.0 for
3 identification.)

4 BY MR. PFAFF:

5 Q. And do you have any exhibits to your
6 supplemental verified statement?

7 A. No.

8 Q. If I asked you today -- first of
9 all, do you have any changes or corrections to
10 either your verified written statement or your
11 supplemental verified written statement?

12 A. I do. Not including page numbering.
13 In my supplemental verified written statement on
14 page 43, the footnote 62 should read AT&T
15 Comments, Docket No. 01-92, et al; at 62 and 63
16 the parenthetical should say March 30th, 2012, and
17 the rest of it remains the same; and then footnote
18 64 there is a P missing in FNRM. It should be
19 FNPRM so it refers back to the same document that
20 was referred to in footnote 62.

21 MR. ANDERSON: I apologize. The
22 first footnote you mentioned was 62 or 63?

1 THE WITNESS: Sixty-two.

2 MR. ANDERSON: Thank you.

3 THE WITNESS: And it's just the date
4 of the comments that changed.

5 BY MR. PFAFF:

6 Q. Any other changes or corrections?

7 A. No.

8 Q. If I asked you the same questions
9 today that are contained in your verified written
10 statement and your supplemental verified written
11 statement, would your answers be the same?

12 A. Yes.

13 MR. PFAFF: I move for the admission
14 into evidence of the verified supplemental -- the
15 verified written statement and the supplemental
16 verified written statements of Mark Felton
17 Exhibit's 2.0 and 5.0 and ask for the testimony to
18 be bound into the record.

19 JUDGE HAYNES: Were these exhibits
20 previously filed on E-docket?

21 MR. PFAFF: Yes.

22 JUDGE HAYNES: On what date?

1 MR. PFAFF: They were filed on
2 December 5th, 2012, and February 12th, 2013.

3 JUDGE HAYNES: Was it February 13th?

4 MR. PFAFF: February 12th. Was it
5 the 13th? 2013.

6 AUDIENCE: The Commission was closed
7 on the 12th.

8 JUDGE HAYNES: It is February 13th
9 then?

10 MR. PFAFF: Is it February 13th
11 then. I apologize.

12 JUDGE HAYNES: You probably filed
13 it, but our clerk's office didn't take it until
14 the 13th. Is there any objection?

15 MR. ORTLIEB: No.

16 MR. ANDERSON: No objection.

17 MS. ERICSON: No objection from
18 staff.

19 JUDGE HAYNES: Thank you. Those
20 exhibits as previously filed on E-docket are
21 admitted.

22 MR. PFAFF: We will tender

1 Mr. Felton for cross-examination.

2 MR. ANDERSON: Thank you.

3 C R O S S E X A M I N A T I O N

4 BY MR. ANDERSON

5 Q. Mr. Felton, my name is Karl

6 Anderson.

7 A. Good morning.

8 Q. Just to set the stage I'll have
9 questions for you on a number of issues then
10 Mr. Ortlieb will have questions for you on issues
11 15, 16, 17, 24 and 30. So I will not be
12 addressing those issues where you address them in
13 your testimony. I will be addressing other
14 issues.

15 Would you please refer to page
16 eight of your rebuttal or supplemental verified
17 testimony. Here, you begin a discussion of issue
18 19 which involves a dispute over the definition of
19 Interconnection Facilities in Section 2.60 of the
20 general terms and conditions of the proposed ICA,
21 is that correct?

22 A. I'm sorry. Could you repeat the

1 question? I was reading.

2 Q. I'm just setting the stage. This is
3 issue 19 and that relates or that is a dispute
4 over the definition of Interconnection Facilities
5 as it's contained in Section 2.6 of the GT&C's,
6 correct?

7 A. Correct.

8 Q. Now, with reference to AT&T's
9 proposed definition, you indicate that Sprint's
10 real objection is not to the reference to the
11 definition of interconnection in FCC Rule 51.5,
12 but rather to the use of the word, quote,
13 exclusively, unquote, is that correct? Referring
14 you to lines 155 to 166.

15 A. That is correct. I will add,
16 though, that we really object to the
17 characterization that interconnection encompasses
18 a very narrow classification of traffic and then
19 to apply the word exclusively to that is what
20 causes our objection.

21 Q. Okay. So 2.60 with AT&T's proposed
22 language simply refers to the definition of

1 interconnection in FCC Rule 51.5, correct?

2 A. I do not have that in front of me,
3 but I can accept that subject to check.

4 Q. Now -- and so the difference in
5 the -- I think you just said this. Your objection
6 is based on your objection to the way AT&T
7 Illinois and the Commission staff have interpreted
8 the language of Rule 51.5, correct?

9 A. I believe that to be true. Again,
10 to make sure it's clear. Our objection is
11 defining interconnection with the traffic that
12 falls within the definition of interconnection as
13 only Intra-MTA traffic that originates with a
14 customer of one of the -- or an end user of one of
15 the parties and terminates to an end user of the
16 other party and then saying that the
17 Interconnection Facilities must be used
18 exclusively for that improperly narrowed, narrowly
19 defined --

20 Q. And, again, that dispute relates to
21 a dispute between Sprint on the one hand and AT&T
22 Illinois and the staff on the other hand regarding

1 the interpretation of the term mutual exchange of
2 traffic as it appears in Section 51.5 -- Rule
3 51.5, correct?

4 A. Yes.

5 Q. Okay. So you don't have an
6 objection to the definition to the extent that it
7 would limit the use of Interconnection Facilities
8 to interconnection as defined in Rule 51.5 as
9 Sprint interprets Rule 51.5, correct?

10 A. I think that's right, yes.

11 Q. Thank you.

12 A. And I guess I would say as Sprint
13 and I believe the FCC interprets 51.5.

14 MR. ANDERSON: I'm going to move to
15 strike the last comment as nonresponsive.

16 JUDGE HAYNES: Overruled.

17 BY MR. ANDERSON:

18 Q. And the difference in the parties'
19 interpretation of Rule 51.5 as a practical matter
20 in the context of this case would you say that
21 relates specifically to the question of whether
22 Rule 51.5 interconnection traffic includes traffic

1 between Sprint and an IXC and also whether 911
2 traffic sent by Sprint to a PSAP constitutes the
3 use of facilities for interconnection under Rule
4 51.5?

5 A. I think that those categories of
6 traffic would be included to the extent that they
7 are exchanged between Sprint and AT&T. To the
8 extent that there are facilities between Sprint
9 and AT&T that are used to get traffic from Sprint
10 and an IXC or Sprint and a PSAP then, yes, those
11 categories of traffic fall under
12 interconnections --

13 Q. And that's --

14 A. -- under 51.1.

15 Q. And as a practical matter that's
16 what the dispute is in this case?

17 A. Basically, yes.

18 Q. It relates to the treatment of those
19 types of traffic?

20 A. Yes. That's part of it, yes.

21 Q. Now, would you agree that, in
22 essence, the Section 251(c)(2) interconnection

1 requirement provides a competitive carrier with
2 the ability to make calls to and receive calls
3 from consumers on the incumbent network?

4 A. Sure. The answer to that is yes.
5 As long as you're not implying that that is
6 exclusively what it provides.

7 Q. Now, you also agree that backhaul
8 traffic is not interconnection traffic within the
9 meaning of section -- or Rule 51.5, correct?

10 A. Correct.

11 Q. And you agree that TELRIC-based
12 Interconnection Facilities may not be used for the
13 purpose of carrying backhaul traffic, is that
14 correct?

15 A. That is correct.

16 Q. So you agree that the -- Strike
17 that.

18 At pages four to five of your
19 rebuttal testimony?

20 A. Four to five or 45?

21 Q. Four to five. Four and five. I
22 apologize. I'm going to move on.

1 Now, refer to page four line 161
2 of your rebuttal testimony.

3 A. I don't have a line 161 on page
4 four.

5 Q. I apologize. Line 61.

6 A. Okay.

7 Q. You describe backhaul traffic as
8 traffic that is not sent outside Sprint's network,
9 correct?

10 A. I do.

11 Q. And, by that, do you mean that
12 backhaul traffic refers only to calls that
13 originate and terminate with Sprint customers?

14 A. No. A backhaul would be the
15 carriage of traffic from, say, a cell site to a
16 mobile switching center and utilizing facilities
17 maybe procured from AT&T. So, in effect, that
18 traffic is not being exchanged with AT&T, it's
19 Sprint procuring a piece of network to connect our
20 cell site to our mobile switching center. If that
21 call then happens to go on to a Sprint customer --
22 another Sprint customer, I wouldn't call that

1 piece backhaul, but it would not be exchanged with
2 AT&T either. So I don't know that I'm helping,
3 but the backhaul piece would be from the tower to
4 the mobile switching center.

5 Q. So you agree backhauling is not
6 limited to calls that originate and terminate with
7 a competitive carrier's customers, correct?

8 A. I don't think that backhauling
9 entails the origination and termination of a call
10 at all. It is the carrying of a call from its
11 originating point to an intermediate point and
12 then it may be exchanged. It may go on from there
13 to another Sprint customer, it may go to an AT&T
14 customer or some third party and how it gets to
15 the AT&T customer, or the third party, the
16 Interconnection Facility could be used for that.

17 Q. Well, do you believe that
18 backhauling can occur when -- let me ask it this
19 way.

20 Do you recall that backhauling
21 occurs when a competitive -- or CLEC, for example,
22 leases an incumbent's entrance facility to

1 transport a call originated by one of its
2 customers to a customer served by a wireless
3 provider?

4 A. I'm not sure I'm clear on what
5 you're asking. Could you rephrase or maybe ask it
6 again?

7 Q. Let me say this. Let me give you an
8 example of a situation where a CLEC leases an
9 incumbent's entrance facility or Interconnection
10 Facility, as we use the term in this case, to
11 transport a call originated by one of its
12 customers to a customer served by a wireless
13 provider. So there is not an exchange with AT&T's
14 end user. Do you believe that constitutes
15 backhauling?

16 A. Is the CLEC interconnected with the
17 AT&T tandem and the wireless carrier
18 interconnected with the AT&T tandem?

19 Q. I'm just asking the question the way
20 it's worded.

21 A. I can't answer the question without
22 further detail and clarification.

1 Q. Is it your position that there is
2 mutual exchange of traffic between Sprint and AT&T
3 Illinois within the meaning of Rule 51.5 when
4 Sprint sends traffic to AT&T Illinois for delivery
5 to a consumer on a third-parties network?

6 A. Yes.

7 Q. On page 15, line 293, you refer to
8 traffic to and from an IXC, correct? Are you
9 referring there to a scenario in which Sprint is
10 sending traffic over AT&T facilities where the
11 call is originated from by a customer of Sprint
12 and destined to be terminated to an end user of an
13 IXC?

14 A. Can I take a second to read this?

15 Q. Sure.

16 A. Just to make sure that this is read
17 in context. The answer to your question is, yes,
18 that traffic would fall within the confines of the
19 mutual exchange of traffic as contemplated under
20 51.5. The point I'm trying to make in this
21 paragraph, though, is even if it were not,
22 paragraph 972 of the Connect America Fund Order

1 would say that traffic is certainly permissible
2 over the Interconnection Facility to the extent
3 that you're using that facility for the exchange
4 of interconnection traffic.

5 I'm not saying that that traffic
6 is not interconnection traffic because certainly
7 it is, but if it were not, then paragraph 972 of
8 the CAF order would say you can still put it over
9 the Interconnection Facility.

10 Q. Now, in the scenario I mentioned,
11 the customer of the IXC could be, for example, a
12 person located in Indiana, correct?

13 A. Sure.

14 Q. So that the end user in that
15 situation or the end user to whom the call is
16 ultimately terminated is not a customer of AT&T
17 Illinois, correct?

18 A. Yes, that is correct and I've made
19 it clear in my testimony that that is the
20 provision of jointly provided switched access or
21 jointly provided exchange access with Sprint
22 providing a piece and AT&T providing a piece of

1 that.

2 MR. ANDERSON: I'm going to move to
3 strike everything after the answer yes. It was
4 simply a question whether he agreed that the end
5 user in that scenario is not a customer of AT&T
6 Illinois. That's the only question.

7 MR. PFAFF: I think the witness is
8 allowed to explain his answer.

9 JUDGE HAYNES: It will stay on the
10 record.

11 BY MR. ANDERSON:

12 Q. And it's your contention that in
13 that scenario there's a mutual exchange of traffic
14 between AT&T Illinois and Sprint within the
15 meaning of FCC Rule 51.5, correct?

16 A. Yes.

17 Q. And is it your contention that this
18 position is consistent with the FCC's
19 interpretation of Rule 51.5?

20 A. Yes.

21 Q. And is it true that the FCC filed an
22 amicus brief with the United States Supreme Court

1 in the Talk America case, which you have discussed
2 in your testimony?

3 A. That is my understanding, yes.

4 Q. And is it true that the Supreme
5 Court deferred to the FCC's interpretation of its
6 rules as set forth in the amicus brief that it
7 filed with the Supreme Court?

8 A. Again, that's my understanding, yes.

9 Q. Would you agree that in its amicus
10 brief, the FCC stated as follows "In construing
11 the linking of two networks for the physical
12 exchange of traffic, the FCC stated that, quote,
13 such linking enables customers of a competitive
14 LEC to call the incumbent's customer and vice
15 versa"?

16 MR. PFAFF: Mr. Anderson, do you
17 have something you want to show him?

18 MR. ANDERSON: I'm happy to show him
19 a copy of the decision if you'd like or a copy of
20 the brief.

21 BY THE WITNESS:

22 A. I can accept that the amicus brief

1 says that. Again, I think it's clear and if it's
2 not we all know that I'm not an attorney and I'm
3 not here to render a legal opinion, but I don't
4 believe that the FCC was saying there that that
5 was the only traffic that may traverse that
6 Interconnection Facility. It certainly does allow
7 the requesting carrier to make calls -- the
8 customer of the requesting carrier to make calls
9 to the customers of the incumbent LEC, but those
10 are not the only calls that are allowed on that
11 Interconnection Facility.

12 BY MR. ANDERSON:

13 Q. Would you agree at page five of the
14 amicus brief -- and if you'd like I'll show you a
15 copy.

16 A. Sure.

17 Q. Is it -- would you agree that in
18 paragraph two on page five of the FCC's amicus
19 brief -- I should say the brief for the United
20 States' amicus brief -- the FCC stated that this
21 case concerns the proper regulatory treatment of
22 entrance facilities, correct?

1 A. It does say that in paragraph two,
2 yes.

3 Q. It goes onto state that entrance
4 facilities have two distinct principal purposes,
5 correct?

6 A. Yes, it says that.

7 Q. And the first distinct purpose
8 described there is, quote, first, a competitor can
9 use an entrance facility to interconnect its
10 equipment with the incumbent's equipment so that
11 calls can move back and forth between customers on
12 the two networks, correct?

13 A. If you're asking me to read that,
14 that is, in fact, what it says.

15 Q. And then it gives an example in
16 which a call is exchanged between customers on the
17 two networks, correct?

18 A. It does say that and, again, I do
19 not believe that that was the FCC's intent was for
20 that to mean that was the exclusive type of call
21 that may be transmitted over that Interconnection
22 Facility and I think that it's important to

1 characterize the Talk America case correctly and
2 it was a case that was intended to distinguish or
3 to clarify that just because an incumbent LEC was
4 relieved of its obligation to provide unbundled
5 network elements under 251(c)(3) that it was not
6 relieved of its obligation to provide
7 Interconnection Facilities under 251(c)(2) and it
8 made clear that one of the main distinctions
9 between those two types of facilities was the
10 ability to use the 251(c)(3) unbundled network
11 element for backhauling and you could not use the
12 251(c)(2) Interconnection Facility for
13 backhauling.

14 I do not believe that it was
15 intended to improperly narrowly or limit the type
16 of traffic that could be transmitted over the
17 Interconnection Facility.

18 Q. Again, on page five, it lists two
19 principal purposes. The first purpose listed is
20 to use as -- to interconnect equipment with the
21 incumbent's equipment so that calls can move back
22 and forth between customers on the two networks

1 and the second principal purpose listed is to use
2 entrance facilities to transport traffic between
3 points on its own network, correct?

4 A. You have correctly read that
5 sentence.

6 Q. Those are the two principal purposes
7 identified for entrance facilities. Would you
8 also agree that at page 12 of its amicus brief in
9 summarizing its argument the FCC defines or
10 describes Section 251(c)(2) as follows?

11 Section 251(c)(2) requires
12 incumbent carriers to provide interconnection to
13 their competitors at cost-based rates making it
14 possible for the customers of a competitive
15 carrier to call and receive calls from an
16 incumbents larger customer base. Does it state
17 that?

18 A. It appears you have correctly read
19 that sentence, yes.

20 Q. I would like to offer the amicus
21 brief as an exhibit for the record and have it
22 marked as AT&T Illinois Cross Examination Exhibit

1 1.

2 (Document marked as AT&T
3 Illinois Cross Exhibit No. 1
4 for identification.)

5 JUDGE HAYNES: Do you have three
6 copies for the court reporter?

7 MR. ANDERSON: Yes, I had made
8 three.

9 MR. PFAFF: No objection.

10 JUDGE HAYNES: No objection. Okay.
11 Since there was no objection from Sprint, AT&T
12 Cross Exhibit 1 is entered into the record.

13 MR. ANDERSON: Thank you.

14 BY MR. ANDERSON:

15 Q. Would you please refer to page 14
16 lines 267 to 272.

17 JUDGE HAYNES: Rebuttal?

18 MR. ANDERSON: This is all in the
19 rebuttal. Yes, thank you.

20 BY MR. ANDERSON:

21 Q. There you discuss a North Carolina
22 Commission decision which you state held that

1 proposed service offered by Intrado,
2 I-N-T-R-A-D-O, as a competitive 911 provider
3 constituted, quote, telephone exchange service,
4 unquote, within the meaning of the 1996 Act and,
5 therefore, that AT&T was required to interconnect
6 with Intrado pursuant to Section 251(c)(2) of the
7 Act, correct?

8 A. Correct.

9 Q. Do you know whether the Illinois
10 Commerce Commission has ever entered an order
11 addressing the proper classification of 911
12 services offered by Intrado?

13 A. I do not know.

14 Q. So you have not had an opportunity
15 to review the Commission's arbitration decision in
16 Docket 08-0545 entitled Intrado, Inc. Petition
17 for arbitration pursuant to Section 252(b) of The
18 Communications Act of 1934 as amended?

19 A. I have not reviewed that.

20 Q. Okay. And so you are not aware of
21 the fact that in that case the Commission -- the
22 Illinois Commerce Commission held that Intrado's

1 911 service is not a telephone exchange service
2 within the meaning of the federal definition?
3 You're not aware of that?

4 A. I'm not aware of the order. So, no,
5 I would not be aware of that.

6 Q. And did you make any attempt to
7 determine whether there was any Illinois precedent
8 as opposed to North Carolina precedent on this
9 issue when you developed your testimony on this
10 point?

11 A. I did not. 911 was not the greatest
12 of our concerns, but I will say that, again, to
13 the extent that it is not considered telephone
14 exchange or exchange access permissible for
15 carriage over the Interconnection Facility --
16 well, permissible under -- by virtue of the fact
17 that it's telephone exchange or exchange access
18 paragraph 972 of the CAF order could not be more
19 clear that that would fall under other
20 functionality. That Interconnection Facility can
21 be used for other functionality as well.

22 Q. Please refer to page 52 lines 1001

1 to 1007.

2 A. We're still in rebuttal, right?

3 Q. Still in rebuttal.

4 A. All right.

5 Q. Now, there you assert that Sprint's
6 position that it should not be subject to access
7 charges on Inter-MTA traffic is consistent with
8 the FCC's intent as expressed in the Connect
9 America Fund Orders, correct?

10 A. Could you point me to the line
11 numbers -- wait. I see it.

12 JUDGE HAYNES: For the record, the
13 court reporter, they've been calling it the CAF
14 order or Connect America Fund.

15 MR. ANDERSON: C-A-F. All caps.

16 BY THE WITNESS:

17 A. I'm sorry. Could you repeat your
18 question, please?

19 BY MR. ANDERSON:

20 Q. Sure. I think there, if I
21 understand your testimony, you're asserting that
22 Sprint's position that it should not be subject to

1 access charges on Inter-MTA traffic it's
2 consistent with the FCC's intent as expressed in
3 the Connect America Fund Order, correct, or am I
4 misstating your testimony?

5 A. No, I believe Sprint's position is
6 consistent with the FCC.

7 Q. Do you know did Sprint or are you
8 aware of the fact that Sprint filed comments in
9 the FCC preceding that resulted in the FCC
10 entering the Connect America Fund Order?

11 A. I am sure that we did. In fact, I
12 believe -- are those the comments from February
13 24th and March 30th?

14 Q. Sprint filed actually several sets
15 of comments. Are you aware of that fact?

16 A. I am not specifically aware, but it
17 would not surprise me that we filed comments.

18 Q. Would you accept that Sprint filed
19 comments in that docket on April 18th, 2011?

20 A. Sure. I would accept that.

21 Q. And would you agree that in those
22 comments Sprint requested that the FCC explicitly

1 declare that local exchange companies are
2 prohibited from imposing access charges on mobile
3 traffic?

4 A. Sure. I would accept that we said
5 that. The FCC has not made any clear statement
6 one way or the other on whether access charges
7 apply.

8 Q. Right.

9 A. So that's why -- and, again, this is
10 largely a legal issue with interpretations of the
11 statutory definitions required to arrive at a
12 conclusion and it certainly would be nice for the
13 FCC to make a definitive statement that says
14 access charges apply or access charges do not
15 apply. They simply haven't done that.

16 Q. And they didn't do it in the Connect
17 America Fund Order, correct?

18 A. That's correct, but that doesn't
19 mean that our position is inconsistent with the
20 FCC's intent. We believe it is fully consistent
21 with the FCC's intent. That's why I made the
22 statement that I did.

1 Q. Okay. And in making its request to
2 the FCC that it explicitly declare that LEC's are
3 prohibited from imposing access charges on mobile
4 traffic, would you agree that Sprint relied in
5 part on the order that you referred to in your
6 testimony here as the 2008 Wireless Toll
7 Declaratory Order on page 14?

8 A. I'm sure that was part of the
9 consideration, sure.

10 Q. And would you agree that the
11 arguments made regarding that order are
12 essentially the same as the arguments you have
13 made in your testimony in this case?

14 A. It is very consistent with the
15 arguments we've made, yes.

16 Q. And, again, the FCC in its CAF order
17 did not grant Sprint's request for an explicit
18 declaration that LEC's are not allowed to impose
19 access charges on mobile traffic, correct?

20 A. It did not make an explicit
21 statement in the CAF order. I would agree with
22 that.

1 MR. ANDERSON: That's all my cross
2 examination. I will now hand it over to
3 Mr. Ortlieb.

4 MR. ORTLIEB: Your Honor, can we
5 take a short break, a short moment? I want to
6 consult with counsel for Sprint just on one
7 administrative matter.

8 JUDGE HAYNES: Okay.

9 (Whereupon, a break was taken
10 after which the following
11 proceedings were had.)

12 JUDGE HAYNES: Okay. Go ahead.

13 C R O S S E X A M I N A T I O N

14 BY MR. ORTLIEB

15 Q. Good morning, Mr. Felton.

16 A. Hi, Mr. Ortlieb.

17 Q. I'm attorney number two for you this
18 morning and I'm going to start with some questions
19 about the DPL and the current agreement that we
20 have with respect to issue 15 and for the record I
21 have placed before you a copy of -- it's just one
22 page, but it shows the contested language from

1 issue 15 from the DPL, do you see that in front of
2 you?

3 A. I do.

4 Q. And if I'm reading this correctly,
5 there are two places where Sprint and AT&T have
6 competing language, is that correct?

7 A. It appears to be, yes.

8 Q. So in the first place I'll draw your
9 attention to is the last line where AT&T proposes
10 to assert the words "and financially" and Sprint
11 objects to that insertion, correct?

12 A. Yes.

13 Q. And am I correct that that word
14 dispute really implicates a sharing issue? In
15 other words, an issue concerning whether or not
16 the parties should share the cost of transport
17 that is raised elsewhere in this arbitration?

18 A. That is, yes. That is the issue.

19 Q. So the resolution of this issue
20 whether or not to insert the words "and
21 financially" really goes hand in hand with an
22 issue that is teed up elsewhere?

1 A. Yes.

2 Q. Now, with respect to the language
3 that precedes that -- I'm sorry. Before I get to
4 that.

5 Still with respect to this "and
6 financially." You understand, don't you, that
7 Ms. Pellerin and Dr. Liu in support of their
8 positions have referenced four or five ICC
9 decisions in which the Commission determined that
10 the definition of a POI should include the idea
11 that each party is financially responsible for the
12 facilities on its side of the POI?

13 A. I am aware of that and Sprint's
14 witness Mr. Fararr really addresses that issue in
15 more detail.

16 Q. Just for clarification your rebuttal
17 testimony doesn't dispute that there are four or
18 five such ICC cases, correct?

19 A. No.

20 Q. And did you look to see whether
21 there were ICC cases that came out the other way
22 on this issue?

1 A. I really did not look at that issue
2 in that much detail. I just pointed to the fact
3 that the two words "and financially" the dispute
4 that those words created for Sprint was the
5 sharing issue and the sharing issue was addressed
6 by Mr. Fararr. So I did not do that level of
7 research.

8 Q. Okay. I know this is a legal matter
9 which we're fully address on brief, but just to
10 nail this one down. You're not aware as you sit
11 here today of any ICC decision that comes out in a
12 different way then the cases cited by Ms. Pellerin
13 and Dr. Liu?

14 A. I am not aware of decisions on
15 either. I am not intimately familiar with
16 decisions on either side of that issue.

17 Q. Thank you. So returning now to the
18 language that -- the disputed language that comes
19 before that here the dispute is that AT&T is
20 offering the words "where the parties' network
21 meet" and Sprint's offering the words "where the
22 Interconnection Facilities connect with AT&T

1 Illinois' network," correct?

2 A. Yes, that is -- it appears to be the
3 current state of the issue, yes.

4 Q. Thank you. And would you agree that
5 what the parties are really trying to get at there
6 is a description of the POI at which the two
7 parties' networks come together?

8 A. It appears to be, yes.

9 Q. Regardless of the words used, that's
10 the concept we're trying to convey?

11 A. Sure.

12 Q. And would I be correct in saying
13 that unlike the dispute over the word financially,
14 there is no underlying economic dispute that is
15 hidden in this agreement we're talking about now?

16 A. Not that I'm aware of. Just sitting
17 here reading these words today, there doesn't seem
18 to be a tremendous difference between them. I'm
19 clearly not authorized to sit here on the stand
20 and accept AT&T's position with respect to
21 those -- that phrase, but there does not appear to
22 be a tremendous difference between those two.

1 Q. I appreciate that. So would you
2 also then agree with me that what really we have
3 here is a dispute about -- it's a wordsmithing
4 dispute about the best words to choose to describe
5 something?

6 A. You could characterize it that way.
7 I think -- again, I don't know if there may be
8 something more beneath the surface that I'm aware
9 of.

10 Q. But as you sit here today --

11 A. As I sit here today, they seem to be
12 similar.

13 Q. Now, in connection with your
14 testimony on issue 15, did you go back and take a
15 look at the current interconnection agreement
16 between the Sprint entities and AT&T Illinois?

17 A. I am sure that I saw that language.
18 I can't recall verbatim what it is today, but I
19 know that I did read the language.

20 Q. This isn't a memory test because I'm
21 going to move for the admission of that agreement
22 so that we all have that, but would you accept

1 subject to check that the existing agreement
2 describes a POI as a point of interconnection
3 between SBC's network and Sprint's network?

4 A. I would accept that subject to
5 check.

6 Q. So, again, it's just a generic
7 description of where the parties' networks come
8 together?

9 A. It sounds like that.

10 Q. I appreciate that. Thank you. With
11 respect to issue 16, Sprint offers its wireless
12 services pretty much nationwide, correct?

13 A. Yes.

14 Q. And would you say that Chicago LATA
15 358 is one of the larger markets for Sprint?

16 A. I believe that it is. I'm not in
17 marketing. I don't know. I don't know how it
18 would rank, but Chicago being one of the largest
19 metropolitan areas in the United States I would
20 certainly think that that is one of our larger
21 markets.

22 Q. That makes sense. So would you

1 expect that if look across Sprint's network in
2 Chicago you'd expect to see relatively high
3 traffic volumes for Sprint?

4 A. Sure. Yes.

5 Q. Now, Sprint prepared some data
6 request responses that describe its network in
7 Illinois in some detail and I don't propose to get
8 into that because that has been filed as exhibits
9 to Mr. Albright's direct testimony. Were you
10 involved in the preparation of those data request
11 responses?

12 A. Were these the responses with
13 respect to where -- at what points within AT&T's
14 network we currently have facilities or that we
15 interconnect?

16 Q. Let me be more specific. I see you
17 do not have a copy of Mr. Albright's direct
18 testimony in front of you. I'm going to hand you
19 a copy of that and it will contain the data
20 requests that I'm referring to.

21 A. Okay.

22 JUDGE HAYNES: Is there a specific

1 exhibit to Mr. Albright's testimony?

2 MR. ORTLIEB: Pardon me?

3 JUDGE HAYNES: Is it an exhibit to
4 Albright's testimony?

5 MR. ORTLIEB: Yes. The exhibits in
6 particular I'm going to refer to are Schedules 2,
7 3, 5 and 6 to Mr. Albright's testimony and I'll
8 just represent for the record that those
9 correspond to Sprint data requests response
10 numbers one, two, three and then Albright's
11 Schedule 6 is Sprint data request responses 11 and
12 12.

13 JUDGE HAYNES: I see they're marked
14 confidential. Do we have to worry about the
15 transcript or are you not going to --

16 MR. ORTLIEB: I'm glad you asked
17 that. I did confer with Sprint's counsel prior to
18 beginning my examination and we have an
19 understanding that I will limit my questions to
20 avoid confidential information that would
21 otherwise require us to go in camera.

22 JUDGE HAYNES: Thank you.

1 BY THE WITNESS:

2 A. You're going to guide me through
3 this?

4 BY MR. ORTLIEB:

5 Q. Yes. Mr. Felton, you have had a
6 chance to look that over. My question to you is
7 whether you helped prepare Sprint's responses to
8 data requests numbers 1, 2, 3, 11 and 12?

9 A. Okay. Can you let me make my way
10 there? Can we take those one by one?

11 Q. Certainly. Good idea. Let's look
12 at Sprint data request response number one, which
13 is Schedule 2 to Mr. Albright's --

14 A. So would it be Schedule CCA-2?

15 Q. CCA-2, that's correct.

16 A. Your question is if I participated
17 in the preparation?

18 Q. That's correct.

19 A. I was aware of the data requests and
20 the data that was being pulled. I did not
21 personally pull it. I did not personally prepare
22 it.

1 Q. Fair enough. Did you review the
2 responses before they went out?

3 A. Yes, I reviewed basically all the
4 data request responses.

5 Q. Okay. So that would apply to
6 numbers 1, 2, 3, 11 and 12?

7 A. So under Schedule CCA-2, I see
8 request AT&T Sprint No. 1, but I do not --

9 Q. So then if you go --

10 A. It would be Part 2 -- DR 1 Part 2?

11 Q. Sprint data requests number one has
12 three attachments to it. So if you get past those
13 you will come to Schedule CCA-3 --

14 A. Okay. I'm there.

15 Q. -- which is then Sprint data
16 response number two. And the question is whether
17 you have seen that before?

18 A. If your question is have I seen this
19 before? Yes.

20 Q. And you reviewed it before it went
21 out?

22 A. Yes. At a high level, yes.

1 Q. Let's keep rolling. So that has an
2 attachment to it which is a bunch of circular
3 diagrams, correct?

4 A. Correct.

5 Q. Then you go onto CCA-5, which is
6 Sprint data request number three?

7 A. Right.

8 Q. Which also has an attachment. Is it
9 also your testimony that you reviewed that before
10 it went out?

11 A. Yes.

12 Q. And the last one is CCA-6, which
13 contains Sprint's responses both to numbers 11 and
14 12 with an attachment?

15 A. Yes.

16 Q. And you also reviewed that before it
17 went out?

18 A. Yes.

19 Q. So now let me ask you just a few
20 questions about these documents. Did you review
21 Mr. Albright's direct testimony in the course of
22 this proceeding?

1 A. Yes.

2 Q. And I know you have that in front of
3 you. Could you look at Mr. Albright's direct
4 testimony lines 476 to 485?

5 A. Okay.

6 Q. Do you see there he is describing
7 his understanding or his interpretation of the
8 Sprint data request responses that we just got
9 done looking at a moment ago?

10 A. Yes, I believe that's what he is
11 describing.

12 Q. So my question is whether you have
13 any disagreements with the way Mr. Albright has
14 characterized Sprint's network in those lines of
15 his testimony?

16 A. I don't have -- I don't object to
17 the way he has characterized our network. Where I
18 would object is that that has any relevance
19 whatsoever to the number of POI's that Sprint is
20 required to establish and whether Sprint is
21 required to obtain AT&T's consent to decommission
22 a POI. That stuff is irrelevant to that question.

1 Q. Right. And I'll move to strike that
2 because I know that's Sprint's position, but it's
3 not my intent to get into that debate right now.
4 I'm just interested in exploring whether Sprint,
5 in general, and you in particular, have any
6 disagreement with AT&T's understanding of the
7 Sprint network and so let me move to one other
8 portion of Mr. Albright's testimony and that
9 begins on lines 563 to 588 and, again, do you
10 understand this portion of his testimony to be
11 describing Sprint's network as he understands it
12 from the data requests that we have talked about?

13 A. Similar to my last response, yes.

14 Q. And similar to your last response,
15 you don't have any reason to disagree with the way
16 he has summarized or described the Sprint network?

17 A. I do not.

18 Q. Now, with respect to the data
19 requests, I do have just a few questions. I'm
20 hoping you can help me understand a few things.
21 Turn, please, if you would to the AT&T Sprint
22 No. 1. The data request that you looked at

1 previously.

2 JUDGE HAYNES: So which schedule is
3 that?

4 MR. ORTLIEB: That would be Schedule
5 CCA-2.

6 JUDGE HAYNES: Thank you.

7 BY THE WITNESS:

8 A. Okay. I'm there.

9 BY MR. ORTLIEB:

10 Q. At the bottom of the page and going
11 over to the top of the next page, there is a
12 listing of Sprint wireless switches that serve
13 subscribers in Illinois, correct?

14 A. Yes.

15 Q. There is just a few that I want to
16 ask you about. The second one is a Sprint
17 wireless switch that is located in Kentwood,
18 Michigan, do you see that one? The second one
19 down.

20 A. I do see that, yes.

21 Q. Could you explain to me the routing
22 of calls whereby a Michigan switch serves Illinois

1 customers?

2 A. Well, I don't know that I can
3 explain the specific routing of calls, the routing
4 of calls for this specific switch. However,
5 generally speaking, it's not uncommon for a
6 wireless carrier to have a switch in one state
7 that serves towers in another state and without
8 seeing a map I don't know where Kentwood, Michigan
9 is, but I would assume it would be somewhere near
10 the border of Michigan and Illinois. So there are
11 possibly towers in Illinois that are being served
12 out of that switch.

13 Again, that's a general
14 response. Without knowing the specifics and
15 consulting with the technical network Sprint
16 engineers, I doubt that I would give you a good,
17 specific response.

18 Q. Let me go one -- I'll try one more
19 question and then perhaps move on. Kentwood,
20 Michigan by the way if you'd accept subject to
21 check is near Grand Rapids, Michigan.

22 A. Okay.

1 Q. So is there a --

2 A. Where is Grand Rapids?

3 Q. Is there a scenario in which an AT&T
4 Illinois caller would place a call to a Sprint
5 customer in Illinois and then that call would be
6 routed through the Kentwood switch?

7 A. I'm sorry. Could you repeat that?

8 Q. Is there a scenario in which an AT&T
9 Illinois landline customer would call a Sprint
10 mobility customer in Illinois and that called
11 would be routed through the Kentwood switch?

12 A. I mean, you're asking me to
13 speculate. I assume that could happen, but I
14 don't know that for a fact. I mean, I can
15 speculate, but I can speculate wrong and I don't
16 know that that would do us any good.

17 Q. Also on that page there is a
18 reference to an affiliate Sprint Communications
19 Company, L.P., do you see that?

20 A. Yes.

21 Q. What is that affiliate?

22 A. Sprint Communications Company, L.P.

1 is the Sprint affiliate -- landline affiliate
2 basically that provides CLEC and long distance
3 services.

4 Q. So would you describe it as an IXC?

5 A. I would although Sprint doesn't
6 really provide a lot of retail or any retail
7 interexchange services that I'm aware of anymore.
8 It's more of a CLEC business and there is a
9 fiberoptic backbone network that is utilized for
10 the transmission of calls over longer distances.

11 Q. And, to that extent, that's why you
12 use the term IXC because it transports calls over
13 longer distances?

14 A. The reason I hesitated to call it an
15 IXC is the connotation that that term has that
16 it's a retail carrier offering long distance
17 services to end users or retail customers.

18 Q. Does it do that?

19 A. That's what I was saying earlier. I
20 don't believe that Sprint really does that
21 anymore. It provides more wholesale services to
22 carriers that might re-brand that long haul

1 service under their own brand.

2 Q. So it acts as a -- if I understand
3 you correctly, it acts as a wholesale provider of
4 long haul transport for -- and its customers in
5 that capacity are other carriers?

6 A. Yes.

7 Q. And are those other carriers both
8 landline and wireless carriers?

9 A. You're asking me to speculate.
10 Landline customers, yes. Wireless customers other
11 than Sprint PCS and Nextel, I don't know.

12 Q. Could be?

13 A. Possibly, but I doubt. I'm not
14 aware of any sitting here today.

15 Q. Are you aware of -- does --

16 MR. PFAFF: I'm sorry. Mr. Ortlieb,
17 could you tie this back to his testimony in some
18 manner because we're getting kind of, I think,
19 beyond the scope of his testimony and if you could
20 explain to me how this relates to his testimony I
21 would appreciate it.

22 MR. ORTLIEB: Well, if that's a

1 relevance objection, the answer is we have in the
2 case spirited disagreements about how IXC traffic
3 is to be carried, how it is to be interconnected,
4 what facilities it is to go over. So what I'm
5 trying to explore is Sprint's open affiliate and
6 the extent to which it acts as an IXC as that term
7 is used within the interconnection agreement
8 itself.

9 JUDGE HAYNES: So do you have an
10 objection?

11 MR. PFAFF: I'm sorry. I guess I
12 should have formally made an objection. I think
13 it's beyond the scope of his testimony.

14 MR. ORTLIEB: It's relevant to
15 issues 24 and 30 and that is exactly what
16 Mr. Felton talks about on those issues.

17 MR. PFAFF: I don't believe
18 Mr. Felton in his testimony ever refers to Sprint
19 Communications Company, L.P.

20 MR. ORTLIEB: No, he doesn't, but he
21 does discuss the way IXC traffic ought to be
22 routed, the facilities it ought to go over, what

1 the charges for those facilities ought to be. So
2 I believe I'm entitled to explore the extent to
3 which Sprint's affiliate here who they have
4 identified in their data requests may or may not
5 qualify as an IXC.

6 JUDGE HAYNES: The objection is
7 overruled.

8 BY MR. ORTLIEB:

9 Q. So to return to my pending question.
10 Are you aware of any policy that Sprint
11 Communications Company L.P. has that would
12 restrict it from acting as a wholesale provider
13 for wireless carriers?

14 A. Just to make sure that I'm clear.
15 Are we still talking about the POI issues because
16 my understanding is we were talking about POI
17 issues and you seem to have moved on to facility
18 issues.

19 Q. I have. Right now I'm going to have
20 some more questions for you. So I may have mixed
21 them to an extent, but since we're on Sprint
22 Communications Company L.P. I thought it was a

1 convenient place to ask all my questions
2 surrounding that affiliate?

3 A. All right. So I'm sorry to have you
4 do this, but can you repeat the question?

5 Q. Sure. Are you aware of any policy
6 that Sprint Communications Company L.P. has about
7 whether or not it is willing to act as a wholesale
8 transport provider for wireless carriers?

9 A. I am not aware of a policy that we
10 wouldn't act as a carrier for a -- our wireline
11 affiliate wouldn't act as a carrier for a wireless
12 company although there are not that many out there
13 that don't have their own IXC or wireline
14 affiliate. I mean, there's AT&T and there's
15 Verizon and both of them have their own and
16 T-Mobile to my understanding contracts with
17 someone else. So it could happen. I just don't
18 know who it would happen with.

19 Q. Now, back to your POI question.
20 Does Sprint Communications L.P. provide transport
21 for the Sprint wireless entities to the AT&T
22 Illinois POI's?

1 A. Does Sprint wireline provide
2 transport to Sprint wireless to the AT&T POI's?

3 Q. Yes.

4 A. Well, let me answer that question
5 this way. Sprint wireless certainly uses the
6 Sprint wireline network for transport particularly
7 over long distances. Typically, the way those
8 calls would terminate to AT&T or another wireline
9 carrier would be over Feature Group D connections
10 that Sprint Communications Company L.P. has
11 procured from that wireline carrier.

12 So, to that extent, I mean, I
13 don't want to say without any equivocation that
14 that doesn't happen, but as a general rule Sprint
15 Communications Company L.P. or the wireline
16 affiliate, is going to deliver the traffic to AT&T
17 over Feature Group D connections for traffic that
18 was originated by a Sprint wireless customer.

19 Q. Let me try it this way. Sprint
20 describes in its data request responses certain
21 high capacity fiber ring networks that they have
22 in LATA 358, correct?

1 A. Yes.

2 Q. And are those owned or leased by
3 Sprint Communications Company L.P.?

4 A. It is my understanding that, yes,
5 they are.

6 Q. And are those facilities used by the
7 Sprint wireless facilities to connect the wireless
8 switches to the AT&T Illinois POI locations on the
9 AT&T Illinois network?

10 A. They are. These are fiber rings
11 that consist of OC capacity facilities. OC 3's,
12 OC 12's, OC 192's and they're used for a variety
13 of different purposes and they are -- the price
14 that is paid for them is generally out of an AT&T
15 access tariff or some negotiated arrangement, not
16 a 251 Interconnection Agreement Facility.

17 Q. And if I understand it, Sprint
18 Communications Company L.P. has obtained those
19 high capacity transport facilities from AT&T, but
20 also from other vendors?

21 A. Yes.

22 Q. And as you just mentioned that can

1 be done at commercially negotiated rates?

2 A. Yes.

3 Q. And is it correct to say that
4 Sprint -- because Sprint is purchasing such large
5 volumes and high capacity, that it would be
6 getting very favorable or very competitive prices?

7 A. I would hope that the pricing would
8 be competitive at those capacity levels and
9 with -- if there are multiple providers, yes, I
10 would hope they would be competitive.

11 Q. Because those capacities are pretty
12 darn high, aren't they?

13 A. They generally are for the fiber
14 rings, yes.

15 Q. Now, I want to switch to the
16 response to the data request number 12. That is
17 attached as Schedule CCA-6. Are you with me on
18 response number 12?

19 A. Yes, I'm there.

20 Q. And I'll read from the response
21 where it says "The only agreements identified in
22 response to AT&T DR 11 that requires Sprint to

1 directly connect to an AT&T Illinois tandem or end
2 office when traffic between Sprint and AT&T
3 Illinois exceeds a specified threshold are the
4 three wireless agreements between Sprint and the
5 Illinois Bell Telephone Company."

6 So by that response is it fair
7 to say that there exists in the current
8 interconnection agreement traffic thresholds that
9 requires Sprint to directly connect to either a
10 tandem or an end office?

11 A. Yes, the current agreement does
12 include thresholds at which additional connections
13 are required.

14 Q. Do you recall what that threshold is
15 for connections to a tandem?

16 A. I believe it is 24 T1's. I don't
17 recall exactly, but I believe that's the number,
18 24 T1's.

19 Q. Do you recall what the threshold is
20 for direct connections to an end office?

21 A. I do not. I think it's 24 DS0's,
22 but I don't know that for sure.

1 Q. But in any event that would be
2 clearly spelled out in the interconnection
3 agreement?

4 A. Yes, it is in the interconnection
5 agreement.

6 Q. I appreciate that. In your direct
7 testimony, I'll refer you to lines 544 through
8 546. If you're there, do you see where you say
9 that "Sprint is a large, established wireless
10 carrier with a nationwide network and a long
11 history of efficiently managing network
12 resources."

13 A. I see that.

14 Q. And part of that efficient
15 management included the establishment of the
16 current POI's in Illinois, correct?

17 A. Yes.

18 Q. You say on lines 913 through 916
19 that -- I'll give you a moment to get there. Just
20 a moment. I may have switched to your rebuttal.
21 I have moved along to your rebuttal, Mr. Felton.

22 A. Okay.

1 Q. Again, beginning on line 913. Now,
2 there you say that "Sprint would immediately
3 decommission POI's established at end offices
4 listed in Sprint's response to DR 1 Part 3," is
5 that correct?

6 A. Yes.

7 Q. And by my count that is about 34
8 POI's, is that correct?

9 A. I will accept that subject to check.

10 Q. You use the figure I believe in your
11 testimony that there are 70 POI's?

12 A. Yes. I said in excess of 70 or more
13 than 70, I think.

14 Q. Fair enough. Does Sprint have firm
15 plans to decommission any of the POI's that it has
16 established at AT&T Illinois tandems?

17 A. No, Sprint doesn't have firm plans
18 to decommission POI's at tandems today. You asked
19 me a question a couple minutes ago about
20 efficiently managing Sprint's network and I will
21 maintain that Sprint does efficiently maintain its
22 network within the confines of what is required in

1 the regulatory environment and that includes
2 sometimes decisions that are adverse to what we
3 believe is required by the FCC including a
4 requirement to maintain POI's that are no longer
5 warranted, but what Sprint is asking for here is
6 for this Commission to affirm its right and the
7 requirement to establish and maintain one POI and
8 the inability to decommission existing POI's runs
9 counter to the right to maintain one POI in a
10 LATA.

11 I felt like you were implying
12 that by having 70 plus POI's in the State of
13 Illinois that was somehow a representation of what
14 is efficient. Well, that's a representation of
15 what has been required by the regulatory
16 environment and we would like to assert that the
17 FCC doesn't require that.

18 Q. I accept that that Sprint would like
19 to change the configuration of POI's that it has
20 under the existing ICA. So my testimony was we
21 established it would be your intent to
22 decommission those POI's that are currently

1 established at end offices?

2 A. Yes.

3 Q. And then I asked you a question with
4 respect to the 35 or so POI's that you have
5 established at tandems whether Sprint has any firm
6 plans to decommission those and your answer was,
7 no, it does not?

8 A. It does not. I believe that in my
9 rebuttal testimony that I also represented that
10 Sprint is in the midst of a significant network
11 upgrade that will require us to potentially move
12 facilities and during the course of doing that it
13 seemed like an opportune time to decommission
14 POI's that were no longer needed, but we are
15 hamstrung by our current agreement and the
16 position of AT&T and the staff that would say we
17 have to basically ask for permission to
18 decommission those POI's.

19 Q. Has Sprint requested -- made a
20 request of AT&T Illinois on a business to business
21 basis to reconfigure or decommission POI's?

22 A. I'm not involved on those

1 discussions. So I would not know. I wouldn't be
2 surprised that it has happened, but I don't know
3 that for sure.

4 Q. One last thing I want to talk to you
5 about and that is on line 492 of your rebuttal
6 testimony. There, you make your reference to
7 Rural LEC's and the way traffic is exchanged
8 generally with Rural LEC's as opposed to the way
9 it is proposed to be exchanged with Sprint in this
10 proceeding, is that correct?

11 A. Yes.

12 Q. Can you give me the name of a
13 particular Rural LEC that you're referring to
14 there?

15 A. I cannot and just to make sure we're
16 clear. We have moved I think from POI back to
17 facilities, is that correct?

18 Q. That's correct.

19 A. We're going back and forth. I just
20 want to make sure we have the right context for
21 these questions.

22 Q. I appreciate that. We are being

1 very, agile.

2 A. I'm trying to be agile with you. I
3 cannot give you the name of a specific LEC, but I
4 have been in the telecommunications industry for
5 25 years and I know from my experience that that
6 is the way that AT&T -- particularly most of my
7 experience was with AT&T in the Southeast, the
8 Legacy Bell South companies. I know that is the
9 way they interconnected with Rural LEC's. They
10 had one connection that was used for all of the
11 traffic exchanged between them including traffic
12 that went onto third-party carriers including
13 interexchange carriers.

14 Q. Are you referring to an Illinois LEC
15 when you make that statement?

16 A. I just said most of my experience
17 was in the Southeast region. I don't have any
18 reason to believe that Illinois Bell operates any
19 differently. It certainly may, but no one has
20 presented any evidence to suggest that it does.

21 Q. Just so I have it correctly. You're
22 basing that characterization on your experience in
140

1 the Southeast which would have been in the Bell
2 South territory?

3 A. That is true. I also have had
4 experience in the Verizon region and I know that's
5 the way Verizon operates as well. I would find it
6 surprising that Illinois Bell does things
7 differently than the nine state Bell South region
8 or the Verizon region.

9 Q. You'll agree, won't you, that they
10 were very different companies prior to their
11 merger several years ago?

12 A. Sure. But I think that if you did
13 operate that differently you would have presented
14 evidence to suggest that that is the case, but I
15 haven't seen any evidence to suggest that.

16 Q. Now, with respect to line 492 again
17 here, are you referring to Rural LEC's that you're
18 drawing upon your experience that the type of
19 LEC's that establish connection arrangements with
20 the ILEC's long before the Telecommunications Act
21 of 1996 was passed?

22 A. Were you reading --

1 Q. Back on line 492 where you're
2 talking about Rural LEC's in general.

3 A. And your question is am I referring
4 to Rural LEC's that existed prior to --

5 Q. Are you talking about --

6 A. Or the connections that existed --

7 Q. Put it this way. You'll agree with
8 me, wouldn't you, that Rural LEC's that came into
9 being in the '20s and '30s and '40s established
10 these types of arrangements and we're really
11 talking about arrangements that have had
12 historical longstanding existence that predates
13 the Telecommunications Act of 1996?

14 A. I think that's correct and as I made
15 clear earlier I'm not an attorney. So I'm sure
16 Sprint's attorneys will address this in briefs,
17 but the '96 Act required all -- required a level
18 playing field including the connections with the
19 Rural LEC's and my understanding was AT&T was
20 required to get interconnection agreements and
21 everything was supposed to be on a
22 nondiscriminatory basis.

1 So to the extent that you
2 connect with a Rural LEC just because -- with a
3 single facility and exchange all types of traffic
4 just because they existed in the '20s, '30s or
5 '40s that doesn't mean that that's a valid reason
6 to operate in a discriminatory environment.

7 Q. The Rural LEC's you referred to
8 there, aren't they also LEC's that subtend an ILEC
9 access tandem in order to connect to the rest of
10 the public switch network?

11 A. Sure. I mean, much the same way
12 that Sprint interconnects with AT&T's tandem to
13 access the rest of --

14 Q. Well, Sprint doesn't subtend an AT&T
15 access tandem. In other words, Sprint doesn't use
16 the AT&T access tandem as its only access tandem?

17 A. I'm not sure -- I'm not sure how to
18 answer that. It certainly -- there are certain
19 carriers that the only way Sprint is going to be
20 able to connect to them is through the AT&T access
21 tandem.

22 Q. Well, let's go back to the Rural

1 LEC. Many of them it is very common for them to
2 have only a single switch, a single end office,
3 and to have no access tandem at all, isn't that
4 correct?

5 A. That is certainly a scenario.

6 Q. So, in those cases, those Rural
7 LEC's do what is called subtending. In other
8 words, they connect to the dominant ILEC access
9 tandem in order to interconnect with the rest of
10 the world, correct?

11 A. Well, I think -- I think you're
12 using the word subtend in a way that is trying to
13 create a kind of a carve out for Rural LEC's to
14 have some different provision in the way they
15 connect with AT&T than Sprint would have and I
16 would object to that -- the use of the term "in
17 this way."

18 It's an interconnection. They
19 are a different company than AT&T and their
20 networks are interconnected and they are
21 interconnected in a more favorable way than you
22 are offering to Sprint and that is discriminatory.

1 Q. I'm simply trying to see if I can
2 get your agreement that a single switch Rural ILEC
3 fundamentally uses an AT&T Illinois access tandem
4 in a different way that Sprint does?

5 A. Sure, they do. They have different
6 types of customers. They serve a different area.
7 I'm sure they do that. But, again, the Act did
8 not create some kind of carve out for AT&T to
9 offer something different to those Rural LEC's
10 than they would offer to an existing carrier such
11 as Sprint. In fact, my understanding as a
12 layperson, not an attorney, is the Act
13 specifically prohibited that.

14 Q. The Rural ILEC's that you've
15 referred to that, that you've talked about from
16 your experience, they uniformly establish a meet
17 point boundary to connect to an ILEC at an
18 exchange boundary, isn't that true?

19 A. That is one scenario. There are a
20 myriad of different ways in which the Rural LEC's
21 that I've been familiar with in the past have
22 connected with incumbent LEC's such as AT&T and

1 that would include sometimes AT&T or the larger
2 incumbent LEC, the tandem provider, actually
3 building facilities all the way to the end office
4 of the Rural LEC.

5 So I can't say there is one way
6 in which they do it and that way is each party
7 builds facilities to the exchange boundary. That
8 would be an incorrect statement.

9 Q. Based on your industry experience,
10 that is certainly the predominant way that it is
11 done?

12 A. I don't know that I would -- I'd say
13 that it is certainly a way that has been used.

14 Q. Are you aware of any rural Illinois
15 LEC that connects to AT&T Illinois by buying from
16 AT&T Illinois transport at TELRIC rates?

17 A. No, I'm not sure if they pay
18 anything.

19 Q. Does Sprint propose to connect to
20 AT&T Illinois by buying transport TELRIC rates?

21 A. Yes.

22 MR. ORTLIEB: Thank you very much,

1 Mr. Felton. I have no further questions.

2 JUDGE HAYNES: Staff, do you have
3 cross for the witness?

4 MS. ERICSON: Proceed?

5 JUDGE HAYNES: Yes. Go ahead.

6 MS. ERICSON: Thank you.

7 C R O S S E X A M I N A T I O N

8 BY MS. ERICSON

9 Q. Good afternoon, Mr. Felton.

10 A. Good afternoon.

11 Q. My name is Christine Ericson. I am
12 counsel for Commission staff. I have a few
13 clarification questions for you today.

14 MR. PFAFF: I'm sorry, Ms. Ericson.
15 Could you speak up a little bit? I'm really
16 having trouble. Thank you.

17 BY MS. ERICSON:

18 Q. Can you turn to your direct verified
19 statement marked as Sprint Exhibit 2 at page 15.

20 A. Okay.

21 Q. There you state at line 310, quote,
22 Congress intended for the Interconnection Facility

1 to be used in cases where the ILEC and a
2 requesting carrier were providing jointly provided
3 exchange access," do you see that?

4 A. Yes.

5 Q. And if you can also then reference
6 to your supplemental testimony?

7 A. Okay.

8 Q. Sprint Exhibit 5.0. Page 28 at
9 lines 524 through 531. Do you have that?

10 A. Yes.

11 Q. There you cite a passage from
12 paragraph 184 of the FCC local competition order
13 to support your assertion that I previously read
14 that Congress intended for the Interconnection
15 Facility to be used in cases where the ILEC and a
16 requesting carrier were providing jointly provided
17 exchange access, is that right?

18 A. Yes.

19 Q. Is the phrase as you've used it,
20 joint access providers or jointly provided
21 exchange access, found anywhere in that passage in
22 paragraph 184?

1 A. The phrase jointly provided exchange
2 access?

3 Q. Joint access providers or the phrase
4 jointly provided exchange access?

5 A. It is not.

6 Q. Thank you. In your opinion, is a
7 competitive carrier's right to interconnection
8 affected by whether the competitive carrier
9 provides exchange access jointly with the
10 incumbent LEC?

11 A. Could you restate that? I want to
12 make sure I understand what you're asking.

13 Q. In your opinion, is the competitive
14 carrier's right to interconnection affected by
15 whether the competitive carrier provides exchange
16 access jointly with the incumbent LEC's?

17 A. I would say, yes, it is because if I
18 as a requesting carrier buy an Interconnection
19 Facility from AT&T, but I'm precluded from putting
20 jointly provided exchange access traffic on it and
21 I have to go buy another facility out of AT&T's
22 tariff for that traffic, that is even more

1 inefficient than just buying one facility out of
2 the access tariff.

3 So, effectively, my right as a
4 requesting carrier to make -- to take advantage of
5 Interconnection Facilities under 251(c)(2) has
6 been I don't know if I would say precluded, but
7 certainly the incentive to do so has been lessened
8 greatly.

9 Q. Would a competitive carrier's right
10 to interconnection, in your opinion, be greater if
11 the competitive carrier providers provides
12 exchange access jointly, but with another carrier,
13 not the incumbent LEC?

14 A. I'm not sure I fully understand
15 that, but let me take a stab at an answer and you
16 tell me if I'm misinterpreting the question.

17 Q. Okay.

18 A. If Sprint as a requesting carrier is
19 providing jointly provided exchange access with
20 another carrier other than AT&T for -- to allow
21 access to an interexchange carrier, we wouldn't be
22 using AT&T's network for that or at least we

1 wouldn't be using a 251(c)(2) Interconnection
2 Facility for that. Did I understand your question
3 correctly?

4 Q. I think so. I think so. Thank you.
5 Let's move on.

6 A. I would say that is not the mutual
7 exchange of traffic between Sprint and AT&T.
8 Maybe that's a good way of summarizing what I
9 said. So Sprint would not be entitled to a
10 251(c)(2) Interconnection Facility for that
11 purpose.

12 Q. Okay. Thank you. Now, if you could
13 turn to page 27 of your supplemental Exhibit 5.
14 At line 510, you refer to Sprint's affiliated IXC,
15 do you see that?

16 A. What line, please?

17 Q. Line 510. Page 27.

18 A. Okay. Yes.

19 Q. And then on page 24 of the same
20 Exhibit 5.0 at lines 449 to 450 you state that
21 Sprint is not an IXC and is not acting as, quote,
22 pseudo-IXC, do you see that?

1 A. Yes.

2 Q. So my question is if a Sprint
3 wireless caller makes a call from New York to an
4 AT&T Illinois end user customer, what companies
5 would be involved in carrying the traffic from New
6 York to Illinois?

7 A. A Sprint PCS customer in New York
8 calls an AT&T Illinois customer in Chicago?

9 Q. Correct.

10 A. Today, the way our network is setup
11 the Sprint PCS customer picks up their phone, gets
12 a signal from the tower, makes the call, the call
13 is routed to the MSC, the mobile switching center,
14 and the mobile switching center makes the
15 determination that the call is destined for an end
16 user in Chicago.

17 So Sprint internally hands that
18 call off to our landline affiliate, what we've
19 referred to as the Sprint IXC affiliate who long
20 hauls that call to Chicago and typically that
21 would be delivered to AT&T's access tandem over
22 Feature Group D facilities and then AT&T would

1 terminate the call however they terminate.

2 Q. So Sprint's IXC affiliate would be
3 involved in that transaction?

4 A. Yes. My comment here at line 449 --
5 or 449, 450 Sprint is not an IXC meaning Sprint,
6 the parties to this proceeding, are not the IXC.

7 Q. I'm sorry. I didn't hear you.

8 A. The Sprint parties in this
9 proceeding are not the IXC affiliate.

10 Q. Correct.

11 A. You asked about lines 449 and 450.

12 Q. Right. Your statement that Sprint
13 is not an IXC.

14 A. Yes.

15 Q. And I was just getting some
16 clarification on what you considered to be
17 involved in such a call, what facilities would be
18 involved. Are you confused?

19 A. I'm not. I'm looking at the context
20 of the question and we're talking about Inter-MTA
21 traffic and this is the whole issue of whether
22 access charges apply to that traffic and when I

1 think of the term Sprint acting as an IXC, I'm
2 thinking of an interexchange carrier that the
3 retail customer has picked to be their
4 interexchange carrier who actually charges that
5 customer to long haul a call, which doesn't happen
6 in the scenario that you described. There is no
7 additional charge.

8 Sprint's argument in this --
9 with respect to this issue is all based upon the
10 fact that there is no additional charge. There is
11 no toll charged to that end user and, therefore,
12 the statutory definitions of exchange access and
13 telephone toll service would not support the
14 assessment of access charges on that traffic.

15 Q. Thank you for that clarification.
16 Just so I'm clear. Would your answer change then
17 if the customer pays what Sprint considers to be a
18 separate toll charge on the call?

19 A. Yes.

20 Q. Thank you. In your Exhibit 5 at
21 page 24, again, lines 453 to 456 you state by way
22 of comparison if this type of call was terminating

1 to a Rural LEC that subtended the AT&T access
2 tandem, AT&T sends the call to the Rural LEC over
3 the same common facilities it sends other types of
4 traffic and both AT&T and the Rural LEC bill the
5 IXC access charges for the network functions for
6 each of them respectfully, that each of them
7 respectfully provide. Do you see that?

8 A. Yes.

9 Q. And similarly at page 26 line 492
10 you refer to Rural LEC's who put all their traffic
11 between themselves and AT&T on one common facility
12 regardless of whether such traffic terminates to
13 an AT&T end user or not, is that right?

14 A. Yes.

15 Q. Okay. So I just have a couple of
16 additional questions for you on the Rural LEC's.
17 Do you have any firsthand knowledge of these
18 arrangements between Rural LEC's and incumbent
19 LEC?

20 A. I'm not exactly sure what you mean
21 by firsthand knowledge, but --

22 Q. Have you negotiated such an

1 agreement? Have you participated directly --

2 A. Well part of my -- I'm sorry. Go
3 ahead.

4 Q. -- in one of these transactions?

5 A. Part of my background in my 25 years
6 with Sprint was also working with our ILEC
7 affiliates. So it would have been what is now
8 Century Link, a few mergers ago was actually part
9 of Sprint, and we had similar arrangements with
10 Rural LEC's to use Mr. Ortlieb's term subtended
11 our tandem and the arrangements that I described
12 here were the arrangements between Sprint and the
13 Rural LEC were just as I had described here and,
14 you know, again --

15 Q. Were you involved in those
16 arrangements?

17 A. I'm aware of them firsthand. I
18 don't know what you mean by involved.

19 Q. Did you participate in negotiating
20 them?

21 A. Well, that's where it gets a little
22 bit -- lots of times these arrangements existed

1 prior to the '96 Act and although I believe that
2 there were interconnection agreements required to
3 be negotiated, I'm not sure that they always were.

4 Q. Okay. Thank you.

5 A. I think a lot of them were just kind
6 of in place and they continued -- inertia sort of
7 continued in the way they were before the act.

8 Q. Thank you. In the scenario you
9 described between Rural LEC's and AT&T, does AT&T
10 Illinois charge the IXC cost-based rates?

11 A. And this would be for calls --

12 Q. This is what you're referring to in
13 your testimony on line -- page 26.

14 A. On 26 or --

15 Q. Page 26 at line 492. You reference
16 Rural LEC's putting their traffic --

17 A. And the question is, does AT&T
18 charge the IXC cost-based rates?

19 Q. Correct.

20 A. No, not that I'm aware of.

21 Q. Thank you. Are you aware of any
22 such instances in which AT&T charges a Rural LEC

1 TELRIC rates for the facilities that Sprint is
2 seeking at cost-based rates in this proceeding?

3 A. I'm not aware as --

4 Q. Thank you.

5 A. I --

6 Q. Go ahead.

7 A. I want to clarify in response to
8 Mr. Ortlieb's question. I'm not aware that AT&T
9 actually charges them anything. I think more
10 frequently the case is those facilities are just
11 there and neither party pays the other anything
12 and they're a vestige of pre-act arrangement.

13 Q. But you're not aware of any
14 particular instances when AT&T is charging a Rural
15 LEC cost-based rates, correct?

16 A. No, I guess zero is not a cost-based
17 rate. So, no, I am not aware.

18 Q. Assuming AT&T Illinois receives
19 Inter-MTA traffic from an IXC and routes that
20 traffic to Sprint for completion, are you
21 proposing that AT&T Illinois charge the IXC for
22 the facilities that connect the IXC to Sprint?

1 A. So let me make sure I have -- an
2 interexchange carrier routes a call to AT&T that
3 is destined for a Sprint PCS end user, was that
4 the --

5 Q. Let me repeat it. Assuming AT&T
6 Illinois receives Inter-MTA traffic from an IXC
7 and routes that traffic to Sprint for completion,
8 are you proposing that AT&T Illinois charge the
9 IXC for the facilities that connect IXC to Sprint?

10 A. No, I'm not.

11 Q. Okay. Thank you. Now, I'm going to
12 ask you to consider two types of traffic. The
13 first type is Inter-MTA traffic that AT&T Illinois
14 receives from an IXC and routes to Sprint. The
15 second type is Intra-MTA traffic between AT&T
16 Illinois and Sprint end users on facilities.

17 To your knowledge, has AT&T
18 offered to allow Sprint to combine these two types
19 of traffic on the same facilities if Sprint pays
20 access rates for those facilities?

21 A. In the context of this negotiation
22 or just in general?

1 Q. Or any other.

2 A. I believe that that is the current
3 arrangement that Sprint pays access rates for
4 those facilities, combines those two types of
5 traffic that you just described on the same
6 facility.

7 Q. Okay. Now, if you would turn to
8 page 35.

9 A. Still rebuttal?

10 Q. Of your supplemental verified
11 written statement Exhibit 5. At lines 669 to 672.
12 Are you there?

13 A. Yes.

14 Q. Starting at line 669, you state,
15 quote, in the event exchange access traffic is
16 sent or received between an IXC network and Sprint
17 via the AT&T network as previously explained, AT&T
18 is, in fact, going to charge that IXC pursuant to
19 its switched access tariff, do you see that?

20 A. Yes.

21 Q. In your opinion, will AT&T Illinois
22 charge the IXC for the facility that connects the

1 IXC to Sprint in that instance?

2 A. They shouldn't. Whether they will
3 or not, I'm not one hundred percent positive. I
4 would say probably not and certainly they should
5 not.

6 Q. Okay.

7 A. Because that would be double
8 recovery at the same facility.

9 Q. Okay.

10 MS. ERICSON: Thank you, Mr. Felton.
11 I have nothing further.

12 JUDGE HAYNES: Redirect?

13 MR. PFAFF: Yeah, I have several
14 things.

15 R E D I R E C T E X A M I N A T I O N

16 BY MR. PFAFF

17 Q. I'm going to hand out a diagram that
18 can help with some of these questions. I don't
19 know the best way to do this. I would like to
20 back the easel up if I could?

21 JUDGE HAYNES: Sure.

22 MR. PFAFF: If you don't mind, it

1 might help me to stand a little bit. I'd like to
2 start in response to some questions from
3 Ms. Ericson. Did I say that right?

4 MS. ERICSON: You did.

5 BY MR. PFAFF:

6 Q. Mr. Felton, you have a diagram in
7 front of you, correct?

8 A. Yes.

9 Q. Is that the same diagram I have on
10 the easel here?

11 A. It appears to be, yes.

12 Q. And Ms. Ericson was talking about a
13 call coming from an IXC through the AT&T tandem
14 being received by Sprint, do you remember that
15 call flow?

16 A. Yes.

17 Q. Okay. So when we talk about -- do
18 you see this building here labeled IXC?

19 A. Yes.

20 Q. Okay. Then there's a line going
21 through the AT&T tandem and this building here
22 that is labeled Sprint CMRS Chicago MSC, do you

1 see that?

2 A. Yes.

3 Q. So this is the Sprint wireless
4 switch, correct?

5 A. Correct.

6 Q. This is the Chicago, Illinois
7 tandem, correct?

8 A. Yes.

9 Q. And this is the IXC that has picked
10 up the call and is delivering it to the Sprint PCS
11 customer, correct?

12 A. Yes.

13 Q. Now, Ms. Ericson asked a question
14 about whether or not AT&T charges the IXC for the
15 facility between the IXC and Sprint, do you
16 remember that question?

17 A. Yes.

18 Q. And the problem with that question
19 is there really is no facility that directly
20 connects the IXC to Sprint, is that correct?

21 A. Well, that's correct. Actually, I
22 interpreted her question to be does AT&T charge

1 the IXC for the facility between AT&T and Sprint.
2 I may have misinterpreted that question, but that
3 was the question I answered.

4 Q. I apologize because I don't believe
5 that's the question she asked. She asked about
6 whether or not the IXC got charged for the
7 facility between the IXC and Sprint. So if that
8 is the question --

9 MR. ANDERSON: I'm going to object
10 now. It appears to be this is beyond the scope of
11 cross-examination and that this is, in fact, an
12 attempt to put in additional direct testimony and
13 an additional exhibit which Sprint had every
14 opportunity to do in its pre-filed direct or
15 rebuttal testimony. I don't think this is a
16 proper use of recross -- redirect examination.

17 MR. PFAFF: Your Honor, I would
18 offer that we have the ability to use
19 demonstrative exhibits. Certainly, Ms. Ericson
20 and Mr. Anderson both asked questions about the
21 call flows.

22 MR. ANDERSON: He is redirecting the

1 witness on a question he thought the attorney for
2 staff asked and his own witness is not agreeing
3 with the characterization of the question. So I
4 think it's beyond the scope.

5 MR. PFAFF: We could ask the court
6 reporter to read the question back if you'd like.

7 JUDGE HAYNES: Your witness'
8 recollection and our recollection is that the
9 question was not the way you restated it.

10 MR. PFAFF: Could we ask Ms. Ericson
11 about the question she asked?

12 MS. ERICSON: Could you read back
13 the question? I'm not sure of the question.

14 JUDGE HAYNES: Mr. Pfaff's question,
15 is that what you're saying? Which question did
16 you want reread, the one he just asked?

17 MS. ERICSON: Whichever one is at
18 issue. I'm not sure which one he is talking
19 about.

20 JUDGE HAYNES: Could we get the
21 question back that Mr. Pfaff just asked the
22 witness?

1 MS. ERICSON: Are we back on cross
2 now?

3 JUDGE HAYNES: No. He has a
4 redirect question and the question is whether --

5 MS. ERICSON: I just wanted to
6 clarify.

7 JUDGE HAYNES: He has a question on
8 redirect and AT&T then objected that it is beyond
9 the scope of your cross and so the court reporter
10 indicated it could be difficult for him to find
11 your cross question and so can we get the question
12 reread that Mr. Pfaff just asked on redirect?

13 MS. ERICSON: Just, for the record,
14 staff doesn't object to clarification on redirect
15 by Sprint.

16 MR. PFAFF: It was Ms. Ericson's
17 question.

18 (Whereupon, the record was read
19 as requested.)

20 MS. ERICSON: Are you asking for
21 clarification on the question? Is that what the
22 question is pending? We're referring to the

1 portion that you've marked as Sprint CMRS Chicago
2 MSC to AT&T Chicago Tandem 1.

3 MR. PFAFF: So you are asking
4 about --

5 MR. ANDERSON: I'm sorry. I'd like
6 a ruling on my objection because I'm not sure what
7 this colloquy has on my objection. My objection
8 is it was beyond the scope of the cross
9 examination generally.

10 JUDGE HAYNES: We're going to allow
11 the questions.

12 MR. PFAFF: So now you're going to
13 allow my question?

14 JUDGE HAYNES: I'm going to allow
15 your question on redirect. Although there is
16 some -- let's keep it -- try to keep it within the
17 scope of her cross.

18 MR. PFAFF: That's fine. I think
19 it's important that everybody understands what
20 we're talking about because it's very easy for
21 this stuff to get complicated and that's my
22 purpose for putting up the demonstrative and

1 asking the witness.

2 I think there was a
3 misunderstanding either in the phrasing of the
4 question or certainly how he understood it and
5 that's what I want to try to clarify.

6 BY MR. PFAFF:

7 Q. So my question to Mr. Felton, there
8 is no direct facility between Sprint PCS and the
9 IXC, is that correct?

10 A. That is correct.

11 Q. Okay. And that the only way that
12 Sprint PCS gets this traffic from the IXC is
13 through the AT&T tandem, is that correct?

14 A. Yes.

15 Q. I'm sorry. Assuming that the Sprint
16 PCS switch as Mr. Anderson said and I think
17 Mr. Ortlieb talked about this a little bit, too,
18 subtending. Sometimes competitive carriers
19 subtend the RBOC, I'm sorry, R-B-O-C, for the
20 receipt of IXC traffic, is that correct?

21 A. Yes.

22 Q. And you were asked if whether or not

1 AT&T charges the IXC for this facility, is that
2 what you now understand the question is?

3 A. That was the way I understood the
4 question and my answer was they should not.

5 Q. Okay. Do you understand whether or
6 not AT&T, the RBOC, charges the IXC for this piece
7 of facility between the RBOC access tandem and the
8 IXC?

9 A. My understanding is that they do.

10 Q. And is it your understanding that
11 they provide tandem switching for that function to
12 go you through their tandem?

13 MR. ANDERSON: I object. These
14 questions are leading.

15 JUDGE HAYNES: I can't hear you.

16 MR. ANDERSON: I probably should
17 have objected a few questions ago, but this
18 question is leading. This is redirect
19 examination. Leading questions are not
20 appropriate on direct or redirect.

21 MR. PFAFF: I apologize.

22

1 BY MR. PFAFF:

2 Q. What charges do you believe that
3 AT&T, the RBOC, assesses against the IXC?

4 MR. ANDERSON: I'm going to object
5 that that is beyond the scope of cross.

6 JUDGE HAYNES: Overruled.

7 BY THE WITNESS:

8 A. It is my understanding that AT&T
9 would charge the IXC an access rate for the
10 facility between the POP and the AT&T tandem and
11 they would charge them a minute of use based
12 access rate for the tandem switching function.

13 BY MR. PFAFF:

14 Q. What service is Sprint PCS providing
15 to the IXC in this drawing?

16 A. On the call scenario that a call
17 comes through the IXC routed through the AT&T
18 tandem and terminates to a Sprint end user, Sprint
19 is providing exchange access to the IXC.

20 Q. And what service is AT&T providing
21 to the IXC?

22 A. Exchange access.

1 Q. Thank you. Ms. Ericson also asked a
2 question about Inter-MTA traffic, do you recall
3 that question?

4 A. Yes.

5 Q. Specifically, she talked about a
6 call that originated with a Sprint PCS wireless
7 customer in New York and I believe she said for
8 delivery to Chicago, is that correct?

9 A. Yes. We clarified the question and
10 that's the way I answered it, yes.

11 Q. And in all instances is Sprint's IXC
12 involved in the delivery of an Inter-MTA call to
13 AT&T?

14 A. In call instances, no.

15 Q. And can you describe an instance
16 where the Sprint IXC would not be involved in the
17 delivery of an Inter-MTA call and let's just take
18 the termination point is AT&T Chicago?

19 MR. ANDERSON: I guess I just need
20 to maintain the sanctity of the record here.

21 Again, I object. That's beyond the scope of the
22 cross-examination. I don't think there were any

1 questions related to Inter-MTA calls that are --
2 that don't go through an IXC. So I don't see how
3 that relates to cross.

4 MS. ERICSON: Your Honor, staff just
5 wants to point out we're not sure it's appropriate
6 for AT&T to object to staff's question on
7 redirect. We value the clarifications.

8 MR. ANDERSON: I do want to comment
9 that as an attorney for one of the parties I do
10 have a right to object to these questions whether
11 it's purported that it was within the scope of
12 whoever's testimony. I have a right to make
13 objections and if staff wants to say they don't
14 object, that's fine with me, but I don't think I
15 can be told I'm not allowed to make objections.

16 JUDGE HAYNES: Your objection is
17 overruled. I think it's a clarifying question
18 regarding whether or not the Sprint interexchange
19 carrier at all was involved in a call. For the
20 record, I think it would be nice to have that
21 cleared up.

22

1 BY THE WITNESS:

2 A. So the question is can I describe a
3 scenario in which a Sprint wireless customer makes
4 an Inter-MTA call and Sprint, the IXC, is not
5 involved in the routing of that call?

6 BY MR. PFAFF:

7 Q. That's correct.

8 A. Well, I suppose that, for example, I
9 traveled from Kansas City and I made a call to my
10 wife last night. AT&T is a provider in Kansas
11 City. Maybe not mine, but I'm going to struggle
12 to come up with an example because I believe even
13 in this scenario I think our standard routing
14 protocol would be to route that --

15 Q. Let me ask --

16 A. -- via the IXC.

17 Q. -- this question. Mr. Ortlieb
18 talked about a number of switches that we have
19 serving Chicago, correct?

20 A. Sure.

21 Q. And did he bring up a switch that
22 was in Michigan?

1 A. He did.

2 Q. Can you describe how that might
3 serve Chicago?

4 A. If -- and, again, I'm not familiar
5 with the map of where Grand Rapids or the town
6 that he raised is located, but to the extent that
7 the switch is Michigan and it serves towers in
8 Illinois that happen to be in the same MTA as
9 Chicago, if a call is originated from a customer
10 drawing service from that tower that is terminated
11 into Michigan in an area that would be within the
12 same -- or within a different MTA as the
13 originating caller, it would be routed over the
14 local interconnection trunks between the MSC and
15 AT&T and Michigan.

16 I mean, I could make up a
17 hypothetical example where the switch was in
18 Illinois and the tower was in Michigan and a
19 Michigan caller called a Chicago customer and that
20 call would be routed over Interconnection
21 Facilities over between Sprint and AT&T and
22 Sprint, the wireline affiliate, would not be

1 involved in that call.

2 Q. In that instance then, Sprint would
3 not hand off the call to its IXC affiliate,
4 correct?

5 A. That's correct.

6 Q. All right. Mr. Ortlieb asked you
7 some questions about the thresholds in the current
8 agreement, is that correct?

9 A. Yes.

10 Q. And is it your view that the
11 thresholds in that ICA are efficient?

12 A. No.

13 Q. And he asked you -- do you remember
14 that Mr. Ortlieb asked you some questions about
15 decommissioning POI's?

16 A. Yes.

17 Q. And I believe in your testimony you
18 indicated that Sprint does have plans to
19 decommission POI's, is that correct?

20 A. Yes.

21 Q. Can you describe for this Commission
22 what Sprint's plans are with respect to the IDEN

1 network?

2 A. The IDEN network will be completely
3 retired probably by this summer or certainly by
4 the end of this year.

5 JUDGE HAYNES: For the court
6 reporter, can you spell IDEN?

7 THE WITNESS: IDEN, I-D-E-N.

8 BY THE WITNESS:

9 A. And for clarification that would be
10 the Legacy Nextel network.

11 BY MR. PFAFF:

12 Q. And will Sprint need those POI's any
13 longer?

14 A. No.

15 Q. Mr. Ortlieb also asked you some
16 questions about the definition of the POI in our
17 current agreement, do you remember that question?

18 A. Yes.

19 Q. And you would agree there are some
20 differences between the current ICA and the one
21 we're arbitrating in this proceeding?

22 A. Sure.

1 Q. So do you think it's appropriate to
2 simply adopt the definition in an old agreement
3 that might be used in agreement where the use
4 might be different?

5 A. Absolutely not.

6 MR. PFAFF: I think that's all I
7 have. I'm sorry. I do have one more thing. I
8 would like to offer this demonstrative exhibit
9 into evidence as Sprint -- I don't know what we
10 want to call it.

11 JUDGE HAYNES: I think it would be
12 Sprint Cross Exhibit --

13 MR. PFAFF: Sprint Redirect.

14 MR. LANNON: It would be your first
15 exhibit, though.

16 MR. PFAFF: It depends on how you
17 view our testimony.

18 MR. LANNON: Yes, whether it's cross
19 or redirect.

20 JUDGE HAYNES: For the sake of the
21 record, we'll call it Sprint Redirect Exhibit 1
22 for identification.

1 MR. LANNON: Just so staff is clear.
2 What you pointed to on the white board there is
3 the same as the handout?

4 MR. PFAFF: That is correct.

5 JUDGE HAYNES: Is there an objection
6 from staff or AT&T?

7 MR. ANDERSON: Could I have a
8 second? I would ask -- I think I do have an
9 objection, but before making it I would like to
10 have an opportunity to review this exhibit with
11 our witnesses and so I would ask that you defer
12 ruling until the next time we have a break.

13 JUDGE HAYNES: Okay. We can do it
14 that way.

15 MR. ANDERSON: I do have some short
16 recross based on the assumption that they may be
17 admitted. So if we could do some provisional
18 cross at this time?

19 JUDGE HAYNES: Yes. Go ahead.

20 R E C R O S S E X A M I N A T I O N

21 BY MR. ANDERSON

22 Q. Mr. Felton, with respect to Sprint

1 Redirect Exhibit 1 referring to the blue line near
2 the top that goes to the IXC Chicago POP and then
3 shows lines going to Carbondale AT&T EU -- I'm
4 sorry. The next one T-Mobile CMRS Chicago
5 T-Mobile EU, do you see that line?

6 A. Yes.

7 Q. So we're just referring to the
8 T-Mobile?

9 A. Yes, the blue line if I can
10 recognize the color it would be the third blue
11 line going from the AT&T Illinois Chicago tandem
12 to T-Mobile (CMRS Chicago) and then to what I
13 would assume is a cell site or antenna.

14 Q. TMOEU that's T-Mobile end user,
15 correct?

16 A. Yes.

17 Q. That's not a customer on AT&T
18 Illinois' network, correct?

19 A. That's correct.

20 Q. And just below that the Level 3 end
21 user, again, that is not a customer on AT&T
22 Illinois' network, correct?

1 A. Correct.

2 Q. And then at the top line the RLEC EU
3 is not a customer on AT&T Illinois' network,
4 correct?

5 A. Correct.

6 Q. And the Carbondale where it says
7 Carbondale AT&T end user, Springfield AT&T end
8 user, New York -- or let's take those two.

9 Are those end users -- those are
10 the customers to whom the interexchange call was
11 made by the Sprint customer in this example,
12 right?

13 A. Right. They would be the -- the end
14 user on either of the delivery -- or the
15 origination or termination of a call.

16 Q. What does New York TWC mean?

17 A. That would be New York Time Warner
18 Cable.

19 Q. That's not a customer on AT&T
20 Illinois' network, correct?

21 A. Correct.

22 MR. ANDERSON: No further questions.

1 JUDGE HAYNES: Okay. No further
2 questions.

3 MR. PFAFF: No further questions.

4 JUDGE HAYNES: Thank you,
5 Mr. Felton.

6 THE WITNESS: Thank you.

7 MR. ORTLIEB: Your Honor, if you
8 have a moment, I mentioned during my cross that we
9 would like to move for admission of the current
10 interconnection agreement.

11 JUDGE HAYNES: Okay.

12 MR. ORTLIEB: I would do that
13 pursuant to -- I ask that you take administrative
14 notice pursuant to Rule 200.640(a)2 because it is
15 a matter contained in a record of other docketed
16 Commission proceedings. Namely, that it was filed
17 with the Commission to be approved under 251 and
18 252.

19 JUDGE HAYNES: Do you have the
20 docket number?

21 MR. ORTLIEB: I do not have that
22 with me.

1 MR. PFAFF: Just a point of
2 clarification. Mr. Ortlieb, you're talking about
3 the interconnection between Sprint Spectrum L.P.
4 and I might even say Ameritech?

5 MR. ORTLIEB: Right. Illinois Bell.

6 MR. PFAFF: We have no objection to
7 that. We just want to make sure we get the right
8 docket number when it was approved and I think
9 it's probably in either our petition or perhaps
10 even the response.

11 JUDGE HAYNES: Why don't we hold off
12 until you get the actual docket number.

13 MR. ORTLIEB: I'll do that and I'll
14 bring some copies after lunch with the docket
15 number.

16 JUDGE HAYNES: Okay.

17 MR. PFAFF: But we have no objection
18 to that.

19 JUDGE HAYNES: Okay. So lunch.

20 (Whereupon, a break was taken
21 after which the following
22 proceedings were had.)

1 JUDGE HAYNES: Let's go back on the
2 record. Am I correct that the first thing we're
3 talking about is the Sprint Redirect Exhibit 1 or
4 not yet?

5 MR. ANDERSON: Yes, we're ready to
6 proceed on that if that's what you would like to
7 do at this time.

8 JUDGE HAYNES: Okay.

9 MR. ANDERSON: This won't take long.
10 We do not object to the admission of that exhibit
11 as a demonstrative exhibit.

12 JUDGE HAYNES: As a demonstrative?
13 I missed your last word.

14 MR. ANDERSON: A demonstrative
15 exhibit.

16 (Document marked as Sprint
17 Redirect Exhibit No. 1.0 for
18 identification.)

19 JUDGE HAYNES: Okay. Sprint
20 Redirect Exhibit 1 is admitted into the record.
21 Good afternoon. Mr. Farrar, please right your
22 right hand.

1 WHEREUPON:

2 RANDY FARARR

3 called as a witness herein, having been first duly

4 sworn, deposeth and saith as follows:

5 MR. CHIARELLI: Are you ready, your

6 Honor?

7 JUDGE HAYNES: Go ahead.

8 D I R E C T E X A M I N A T I O N

9 BY MR. CHIARELLI

10 Q. Can you please state your name?

11 A. Randy G. Fararr.

12 Q. And by whom are you employed?

13 A. Sprint.

14 Q. What is your position at Sprint?

15 A. Regulatory policy manager.

16 Q. And do you have before you your
17 verified statement or a copy of it and a copy of
18 your supplemental written statement?

19 A. Yes.

20 Q. And did you file or cause to be
21 filed on December 5, 2012, a direct verified
22 written statement marked Exhibit 3 consisting of

1 52 pages with an attached RGF 3.1 consisting of
2 five pages without counting the cover pages?

3 A. Yes.

4 (Document marked as Sprint
5 Exhibit No. 3 for
6 identification.)

7 BY MR. CHIARELLI:

8 Q. Do you have any corrections to make
9 to Exhibit 3?

10 A. Yes, I do.

11 Q. Can you please identify those?

12 A. There are several. First, on page
13 22, line 508, I would like to change the 18 to 16.
14 On line 511, also on page 22, I want to delete
15 Alabama and the accompanying footnote. On page
16 23, line 514, I would like to delete Wisconsin and
17 the accompanying footnote. Several of the
18 footnotes on page 22 have incorrect page
19 references. I'd like to correct those.

20 Footnote 18, the 58 should be
21 37. On page 23, footnote 24, the 283 should be
22 122; footnote 26, the 122 should be 78; and lastly

1 footnote 28, page 47 should be 26. I'm sorry.

2 There's a couple more.

3 On page 24, footnote 30, page
4 130 should be 53; footnote 31, page 52 should be
5 page 25 and then there's two other changes I'd
6 like to make. On page 27, line 594, again, the 18
7 needs to be changed to 16. On line 596, 10 should
8 be changed to 14 and then footnote 36 needs to be
9 changed. Connecticut is listed twice. So we need
10 to strike one Connecticut and I would like to add
11 to that list: Michigan, Arkansas, Indiana, Kansas
12 and Massachusetts and the one final change is on
13 page 33 table one I would like to add one more to
14 that list and that is Connecticut and the rate is
15 0.000852.

16 Q. Do you have any other corrections to
17 Exhibit 3?

18 A. No, I do not.

19 Q. If you were asked the same questions
20 today that you were asked in Exhibit 3 subject to
21 the identified corrections you just made, would
22 your answers be the same today?

1 A. Yes.

2 Q. Did you file or cause to be filed on
3 February 13th, 2013, a supplemental verified
4 written statement marked Exhibit 6 consisting of
5 64 pages with attached Exhibits RGF 6.1 consisting
6 of 21 pages and RGF 6.2 consisting of two pages
7 without counting the cover page?

8 A. Yes.

9 (Document marked as Sprint
10 Exhibit No. 6 for
11 identification.)

12 BY MR. CHIARELLI:

13 Q. Do you have any corrections to make
14 to Exhibit 6?

15 A. No.

16 Q. If I asked you the same questions
17 today that you were asked in Exhibit 6, would your
18 answers be the same today?

19 A. Yes.

20 MR. CHIARELLI: I move for the
21 admission into evidence of the direct -- of
22 Mr. Fararr's direct and supplemental testimony

1 marked Exhibit 3 and the attached Exhibit's 3.1
2 and Exhibit 6 with its attached Exhibit's 6.1, 6.2
3 and I ask for such testimony and exhibits to be
4 bound into the record.

5 MR. FRIEDMAN: AT&T Illinois
6 actually may have a bit of an objection. May I
7 ask Mr. Fararr a question --

8 JUDGE HAYNES: Okay.

9 MR. FRIEDMAN: -- in order to see if
10 I do? One of the corrections you made in your
11 direct testimony written verified statement on
12 page 33 where you have that table and you added
13 Connecticut, are you with me?

14 THE WITNESS: Yes.

15 MR. FRIEDMAN: You added Connecticut
16 and a rate. There was not already in your
17 testimony any reference to a fourth state or to
18 Connecticut, was there? In other words, that
19 really is you're adding an additional fact, aren't
20 you, rather than correcting a mistake?

21 THE WITNESS: Well, I did refer to
22 Connecticut on the list of the 18 states that had

1 Section 252 -- 251, 252 and I referred to had a
2 TELRIC rate, but I did not have a TELRIC rate in
3 my testimony, correct.

4 MR. FRIEDMAN: Not that it really
5 matters, but I would object to the addition of
6 that Connecticut reference to the table because
7 really it is not in the nature of a correction.
8 It really is an additional new fact and the fact
9 that there was a reference to Connecticut in
10 another context really has nothing to do with it.
11 This was a list of rates that Mr. Fararr is
12 offering as kind of nice, low rates. So other
13 than that, we have no objection.

14 JUDGE HAYNES: Do you want to
15 respond?

16 MR. CHIARELLI: Yes. Can I ask one
17 question? Mr. Fararr, was that rate any place
18 else in the record?

19 THE WITNESS: It was in a data
20 response.

21 MR. CHIARELLI: We would just say
22 it's not a matter of surprise or anything. It was

1 a matter of oversight such that trying to make the
2 record complete, your Honor.

3 JUDGE HAYNES: So you asked him if
4 it was in the record. Is it in the record or is
5 it just in a data response?

6 MR. CHIARELLI: In a data response,
7 correct.

8 JUDGE HAYNES: We agree with AT&T
9 that additional new information regarding
10 Connecticut rates shouldn't be included.
11 Especially not in the form of a correction. And
12 there were so many corrections to Exhibit 3.0 that
13 I think in order to keep the record clear a new
14 clean version needs to be filed on E-docket.

15 So with those two
16 clarifications, we'll allow that into the record
17 once a clean version is filed with all those
18 corrections without the new Connecticut
19 information.

20 MR. CHIARELLI: Okay.

21 MR. LANNON: Staff has no objection,
22 your Honor.

1 JUDGE HAYNES: Oh, thank you. So
2 with that understanding a late filed Exhibit 3.0
3 will be allowed into the record, RGF 3.1 is
4 admitted into the record, 6.0, 6.1 and 6.2 are
5 admitted. So if you can get that filed on
6 E-docket before the hearing is over a clean
7 version would be good.

8 MR. CHIARELLI: Yes, your Honor.
9 Sprint tenders Mr. Fararr for cross-examination.

10 JUDGE HAYNES: Thank you.

11 C R O S S E X A M I N A T I O N

12 BY MR. FRIEDMAN

13 Q. Mr. Fararr, a couple of table
14 setting questions to start with. We have an issue
15 43, do we not, that you testify about and it has
16 to do with the rate that AT&T Illinois will charge
17 Sprint for transit service, correct?

18 A. Correct.

19 Q. Sprint contends in connection with
20 that issue that Section 251(c)(2) of the 1996 Act
21 requires AT&T Illinois to provide transit service
22 as part and parcel of interconnection and,

1 therefore, it must be provided at a TELRIC rate
2 under -- the TELRIC rate for interconnection under
3 Section 252(d)?

4 JUDGE HAYNES: T-E-L-R-I-C.

5 BY THE WITNESS:

6 A. Yes.

7 BY MR. FRIEDMAN:

8 Q. And you understand of course that
9 AT&T Illinois maintains among other things that
10 Section 251(c)(2) does not require it to provide
11 transit service?

12 A. Yes, I understand that.

13 Q. Could you please turn to page 14 of
14 your supplemental verified statement. I will
15 direct your attention to the question and answer
16 on page 14 starting at line 320 and ending with
17 line 328. Are you there?

18 A. Yes.

19 Q. Now, first, there is a little
20 mistake in the question, isn't there, what refers
21 to 47 C.F.R. 251(c)(2) it should say U.S.C.
22 because we're talking about the statute, the

1 Telecommunications Act, rather than the FCC rule,
2 correct?

3 A. Yes.

4 Q. And we have that same little mistake
5 in line 323, correct?

6 A. Yes.

7 Q. And then so you ask the question it
8 should read "Has the Commission ever ruled that
9 transit traffic service rates are not subject to
10 47 -- and I'll say U.S.C. -- Section 251(c)(2)"
11 and then you say "No" and then you talk about Big
12 River.

13 Isn't the no a big mistake
14 because, in fact, the answer is, yes, the Illinois
15 Commerce Commission has repeatedly ruled that
16 Section 251(c)(2) does not require transit
17 service?

18 A. Not that I'm aware of.

19 Q. Are you not aware that the Illinois
20 Commerce Commission in a November 1996 arbitration
21 decision in Docket No.'s 96-003 and 004 ruled as
22 follows "Is transiting required by the act? The

1 FCC's first report in order or state law. It is
2 not." Are you not aware of that?

3 A. No, I was not aware of that, but as
4 far as, you know, my testimony the no I was
5 referring -- okay. Strike that.

6 Q. Were you not aware that in 1997 in a
7 decision involving Sprint, this was an arbitration
8 between Sprint and Ameritech Illinois as it then
9 was in Docket 96-8008, which was an arbitration in
10 which Sprint sought TELRIC pricing for transit
11 service, the Commission repeated "The Act does not
12 require transiting"?

13 A. That I was aware of and just to
14 clarify. You're right. When I was running this Q
15 and A, I was thinking of Big River and Big River
16 did not say that. So with that correction, yes.

17 Q. Yet a third time the Illinois
18 Commerce Commission effectively ruled that the
19 1996 Act does not require transiting in
20 Docket 04-0469 when it said that the 1996 Act does
21 not expressly address issues related to transit
22 service and, quote, that no current rule requires

1 transit service to be provided at TELRIC prices?

2 A. Well, I will simply say that what
3 you just quoted back to me does not say that it is
4 not. It simply says that there is no rule that
5 requires it. So it's a distinction, but I'll
6 accept what you said.

7 Q. All right. Now, since the Illinois
8 Commerce Commission made those three rulings,
9 Congress has not amended the '96 Act, correct?

10 A. That's correct.

11 Q. And it's also correct, is it not,
12 that the FCC --

13 A. Wait. Wait. The Act was then --

14 Q. Congress enacted the
15 Telecommunications Act of 1996 as an amendment to
16 the 1934 Act?

17 A. Yes, and there was no subsequent --

18 Q. Yes. Okay. So the law -- the
19 statute hasn't changed with respect to transit
20 service?

21 A. That's correct.

22 Q. And it is also correct, is it not,

1 that the FCC has not at any time particularly
2 since the Illinois Commerce Commission three times
3 ruled that the Act does not require transit
4 service the FCC has not ruled that the Act does
5 require transit service, correct?

6 A. That's correct. I will just simply
7 add that they teed it up again in the CAF order.

8 Q. Now, you want the administrative law
9 judges to issue a recommended decision saying that
10 Section 251(c)(2) requires transit service, right?

11 A. Yes, I do.

12 Q. So you are, in fact, asking them to
13 tell the Commission that it got it wrong the last
14 three times, right?

15 A. Yes.

16 MR. FRIEDMAN: No further questions.
17 Thank you.

18 MR. ANDERSON: I will be crossing.
19 I'm Karl Anderson.

20 JUDGE HAYNES: Microphone.

21 MR. ANDERSON: Microphone, please.

22 MR. FRIEDMAN: I'm sorry.

1 MR. ANDERSON: Thank you.

2 C R O S S E X A M I N A T I O N

3 BY MR. ANDERSON

4 Q. Now, Mr. Fararr, all my questions
5 will be on your rebuttal testimony. Page three,
6 lines 47 through 54. There you quote certain
7 headings included in the currently effective
8 interconnection agreement between Sprint Wireless
9 and AT&T Illinois, is that correct?

10 A. Yes.

11 Q. Would you agree that Section 19.24.1
12 of that interconnection agreement states that the
13 headings in this agreement are inserted for
14 convenience and identification only and will not
15 be considered in the interpretation of this
16 agreement?

17 A. Yes.

18 Q. By the way, in the existing
19 agreement, would you agree that terms and
20 conditions related to interconnection including
21 provisions related to the location of points of
22 interconnection, or POI's, are contained in

1 Section 2 of the ICA?

2 A. I don't know that, but I'll accept
3 it.

4 Q. And would you also agree that the
5 label for the heading of Section 2 is simply,
6 quote, interconnection, unquote?

7 A. Yes.

8 Q. There is no reference to Section
9 251(c)(2) in that heading, correct?

10 A. Correct.

11 Q. And would you agree that terms and
12 conditions related to the compensation and use of
13 transport facilities used to exchange traffic,
14 including provisions related to cost sharing, are
15 contained in Section 4 of the agreement?

16 A. I don't know off the top of my head,
17 but I'll accept that.

18 Q. Okay. And would you agree that the
19 heading for Section 4 is labeled, quote, terms and
20 compensation for use of facilities, end quote?

21 A. I'll accept that.

22 Q. Again, there is no reference to

1 Section 251(c)(2) in that heading, correct?

2 A. That's correct.

3 Q. And would you agree that Section 6,
4 which is a section for which you did cite a
5 heading, actually deals in part with traffic
6 subject to switched access charges?

7 MR. CHIARELLI: I object. Do you
8 have a copy of the document you can show him?

9 MR. ANDERSON: I do. If you need to
10 look at it, I'll be happy to show it to you.

11 BY THE WITNESS:

12 A. What was your specific question
13 again?

14 MR. ANDERSON: Could I have the
15 question read back, please?

16 (Whereupon, the record was read
17 as requested.)

18 BY THE WITNESS:

19 A. Yes.

20 BY MR. ANDERSON:

21 Q. And among those provisions is a
22 requirement that Sprint pay AT&T Illinois

1 terminating switched access for wireless-to-land,
2 Inter-MTA traffic sent to AT&T Illinois over
3 interconnection or equal access trunks, is that
4 correct?

5 A. Yes.

6 Q. Is it your belief that these
7 arrangements for the payment of switched access
8 charges on land-to-mobile and mobile-to-land
9 Inter-MTA costs should be deemed to be, quote,
10 Section 251(c)(2) arrangements, end quote, based
11 on the language of the heading for Section 6?

12 A. I need that question read back
13 again.

14 Q. Is it your belief that these
15 arrangements for the payment of switched access
16 charges on land-to-mobile and mobile-to-land
17 Inter-MTA calls, in other words, those
18 arrangements discussed in Section 6, should be
19 deemed to be, quote, Section 251(c)(2)
20 arrangements, unquote, based on the language for
21 the heading of Section 6?

22 A. No.

1 Q. Thank you. Now, could you please
2 turn to page 24 and in particular lines -- I know
3 I've written down these lines wrong so I need to
4 check myself to make sure I give you the right
5 number. Okay.

6 I'm referring to lines 545 to
7 548 and that question and answer. There, you
8 respond to Ms. Pellerin's statement that Sprint is
9 entitled to TELRIC based pricing only on
10 facilities that are used, quote, exclusively for
11 interconnection as the FCC defines the term in
12 Section 51 C.F.R. -- Section 47 C.F.R. Section
13 51.5, is that correct?

14 A. Yes.

15 Q. And you claim that Ms. Pellerin's
16 statement is not supported by the decision in Talk
17 America, the Supreme Court's decision in Talk
18 America because the word, quote, exclusively,
19 unquote, does not appear in this decision?

20 A. Well, that's not the only reason.
21 The order that -- the Supreme Court decision says
22 that we're entitled to these facilities, price to

1 TELRIC, and AT&T has thrown up so many roadblocks
2 and so many barriers that it makes the Supreme
3 Court decision absolutely meaningless. Meaning
4 the Supreme Court says we get the stuff at TELRIC.
5 That's all we want.

6 Q. Now, you do say at page 25, line 572
7 that the word, quote, exclusively does not appear
8 in the Talk America decision, correct?

9 A. Yes.

10 Q. And that is part of your argument
11 for why Ms. Pellerin's interpretation or her
12 statement that you refer to at lines 545 to 548 is
13 incorrect, right?

14 A. Again, we're looking at one word.
15 She is --

16 Q. I'm sorry. I'm going to interrupt.
17 I asked you a simple question. Is that one of the
18 arguments you make -- a sentence you have at 572,
19 is that one of the arguments that you are making
20 in opposition to Ms. Pellerin's statement that you
21 refer to at lines 545 to 548?

22 A. Yes, that's one of the reasons, but

1 not the only.

2 Q. Okay. Now, you similarly criticize
3 staff witness Dr. Liu, L-I-U, for using the word
4 exclusively in her testimony in relationship to
5 the permissible use of Interconnection Facilities,
6 is that correct?

7 A. Yes.

8 Q. Would you agree that the word only
9 when used as an adverb means the same as the word
10 exclusively?

11 A. In the dictionary sense, yes.

12 Q. In fact, in the dictionary sense,
13 they're defined exactly the same, correct?

14 A. Okay.

15 Q. Would you agree to that?

16 A. I said okay.

17 Q. And that's a yes?

18 A. Yes.

19 Q. And the Talk America decision does
20 include the word only, doesn't it?

21 A. Yes, it does. It does have the word
22 only in a totally different context.

1 Q. Totally different context. Okay.

2 Well, let's look at the context. Do you have a
3 copy of the Talk America decision there?

4 A. Yes, I do.

5 Q. Do you have the slip opinion or the
6 Supreme Court Reporter's Edition?

7 A. I don't know. I have this.

8 Q. It looks like you may have the slip
9 opinion. Could you turn to page 13?

10 MR. CHIARELLI: Are you also now
11 looking for the slip opinion?

12 MR. ANDERSON: Yes. I think so if
13 he has what I think is the slip opinion.

14 BY MR. ANDERSON:

15 Q. Does it not say in the -- at the end
16 of the carryover paragraph from page 12, that
17 until the FCC had eliminated unbundled access to
18 entrance facilities in the Triennial Review Order
19 that, quote, until then the Commission says,
20 meaning the FCC, a competitive LEC typically would
21 elect to lease a cost price entrance facility
22 under Section 251(c)(3) since entrance facilities

1 leased under Section 251(c)(3) could be used for
2 any purpose, i.e., both interconnection and
3 backhauling, but entrance facilities leased under
4 Section 251(c)(2) can be used only for
5 interconnection?

6 A. I agree completely with that
7 sentence. Our proposal is to use Interconnection
8 Facilities only for interconnection. That is our
9 proposal precisely.

10 Q. So you are not proposing to be
11 entitled to carry backhaul traffic over the same
12 Interconnection Facilities that you used for
13 interconnection?

14 A. It depends upon how you define
15 facility. What I disagree with AT&T's definition
16 of facility as stand-alone dedicated DS1's and
17 DS3's and heaven forbid two different services
18 should ride on the same DS3 facility. That's what
19 I object to. That's not what this order says and
20 that's not what this order suggests.

21 Q. The DS3 is a facility, correct?

22 A. It is -- a facility is a generic

1 term. It is not -- a facility is not only a DS1
2 or only a DS3. That's not what a facility is.
3 It's not a defined term.

4 Q. Is a --

5 A. A portion of DS3 which is dedicated
6 to interconnection is in and of itself a facility
7 and that facility will only be used for
8 interconnection.

9 Q. Okay. So would you agree that if
10 the word exclusively were substituted for only,
11 that the phrase, quote, entrance facilities leased
12 under Section 251(c)(2) can be used exclusively
13 for interconnection, end quote, that that would
14 not change the meaning of the Supreme Court's
15 decision?

16 A. In this context, yes. Because
17 there's nothing in the Supreme Court decision that
18 says Interconnection Facilities and
19 interconnection traffic and other types of traffic
20 cannot ride the same DS3. In fact, this
21 decision -- this decision actually says that in
22 it. It actually discusses different types of

1 traffic riding in the same facility. It's in my
2 testimony.

3 Q. Okay.

4 A. Do you want to wait a minute? I'll
5 find the exact thing.

6 Q. I'm sorry. Mr. Fararr --

7 A. The Supreme Court actually discusses
8 exactly what I'm talking about.

9 Q. Mr. Fararr, you've answered my
10 question. You'll have an opportunity for
11 redirect. I would like you to limit your answers
12 to my question.

13 A. I'm sorry.

14 Q. Thank you.

15 JUDGE HAYNES: Springfield, you
16 might want to mute your microphone.

17 BY MR. ANDERSON:

18 Q. Just to clarify. It's only entrance
19 facilities leased under Section 251(c)(2) that
20 ILEC's have an obligation under the 1996 Act to
21 provide to competing carriers at TELRIC-based
22 rates, correct?

1 A. Yes.

2 Q. Now, the Supreme Court also cites in
3 its decision a decision of the 7th Circuit Court
4 of Appeals on appeal of the Illinois Commerce
5 Commission's order in Docket 05-0442 where it also
6 addressed the use of entrance facilities for
7 backhauling and interconnection, are you familiar
8 with that decision?

9 A. No, I'm not.

10 Q. So you did not review any other
11 appellate court orders on this issue?

12 A. I thought the Supreme Court was
13 sufficient.

14 Q. And I believe that in testimony
15 that's been presented by both staff and AT&T
16 Illinois there is reference to language in the
17 Commission's order in Docket 05-0442 which states
18 that entrance facilities obtained at TELRIC-based
19 rates may be used solely for interconnection, are
20 you familiar with that language?

21 A. I don't specifically recall that
22 language, but, again, I don't have any trouble

1 with that language. Sprint is proposing only to
2 carry interconnection traffic on Interconnection
3 Facilities.

4 Q. Now, if, in fact, the Illinois
5 Commerce Commission had stated in connection with
6 that ruling that ILEC's should be able to block
7 any attempted use of an entrance facility for
8 backhauling, would your testimony be consistent
9 with that?

10 MR. CHIARELLI: I object. You're
11 asking about the decision. He's indicated he
12 hasn't read it. Do you want to give it to him so
13 he can read it?

14 BY MR. ANDERSON:

15 Q. I'm just asking if, in fact, the
16 Illinois Commerce Commission has said that ILEC's
17 can detect and block any attempted use of an
18 entrance facility for backhauling, would you agree
19 that that is inconsistent with your position?

20 A. No, we are not proposing to carry
21 backhaul traffic on Interconnection Facilities.
22 We have acknowledged that from the very beginning.

1 Q. Okay. And a DS3 is a facility,
2 correct?

3 A. Yes. And so is a portion of a DS3 a
4 facility. A facility is not a defined term.

5 Q. Sprint has an ability to order and
6 purchase DS3 facilities and then has a separate
7 ability to order DS1 facilities, correct?

8 A. Yes.

9 Q. So if Sprint purchases a DS3
10 facility which has capacity for the equivalent of
11 28 DS1's, are you saying there's 28 separate
12 facilities or is there one facility, a DS3
13 facility?

14 A. I'm not saying either one. A
15 facility is not a defined term. You cannot find a
16 definition -- do you want to read something
17 humorous. Read the definition of facility in
18 Newton's Telecom Dictionary. It's not a dedicated
19 DS3. I know AT&T wants it to be, but that's not
20 what facilities are. There is no such definition
21 of a facility that is only dedicated DS1's and
22 only dedicated DS3's. There is no such

1 definition.

2 Q. Okay. Refer to your testimony at
3 page 36 and 37. An example of Sprint leasing a
4 DS3 facility, correct?

5 A. Yes.

6 Q. And you're referring to that as a
7 DS3 facility, correct?

8 A. Yes.

9 Q. You're saying it has the capacity of
10 21 DS1's, correct?

11 A. Twenty-eight.

12 Q. Twenty-eight. And then on line 39
13 again you refer to that facility. Are you
14 referring to the DS3 facility?

15 A. Yes, a DS3 is a facility.

16 Q. Thank you.

17 A. A DS1 is a facility.

18 Q. Please refer --

19 A. Also, a portion of a DS3 is also a
20 facility. It's not a defined term.

21 Q. You just said -- line 848 -- you're
22 saying -- to 850 you say "It is important to note

1 that carrying interconnection traffic and backhaul
2 traffic over the same DS3 facility is a routine
3 practice." So there you are stating that you
4 should be able to carry backhaul and
5 interconnection traffic over the same facility,
6 correct?

7 A. Over the same DS3, yes. But a
8 portion of a DS3 is a facility. Those are not
9 defined terms.

10 Q. Now, in support of your position you
11 also quote the Supreme Court as saying that it is,
12 quote, recognized that a single facility can be
13 used for different functions and that its
14 regulatory treatment can vary depending on its
15 use, correct?

16 A. Where are you reading at?

17 Q. Well, you do rely on that statement,
18 correct?

19 A. Can you point out in my testimony
20 what you're reading, please?

21 Q. I'll have to look for a specific
22 reference.

1 JUDGE HAYNES: Line 589.

2 BY MR. ANDERSON:

3 Q. Now, you understand it is AT&T
4 Illinois' position that if an existing entrance
5 facility is used exclusively or only for
6 interconnection, it should receive the regulatory
7 treatment of pricing at TELRIC prices, correct, if
8 used exclusively?

9 A. Can you repeat that once more,
10 please?

11 Q. You understand it's AT&T Illinois'
12 position that if an existing entrance facility is
13 used exclusively or only for interconnection, it
14 should receive one regulatory treatment, i.e.,
15 pricing at TELRIC rates, correct?

16 A. I believe that's your position, yes.

17 Q. And if the same entrance facility is
18 used for both interconnection and backhauling, it
19 should receive a different regulatory treatment,
20 i.e., the ILEC's should not be required to price a
21 facility at TELRIC-based prices, correct?

22 A. That's your position, yes.

1 Q. So if AT&T Illinois' position were
2 adopted, in fact, the regulatory treatment of a
3 single facility, in this case an entrance
4 facility, would, in fact, vary depending on its
5 use, correct?

6 A. No. Again, I do not agree with your
7 definition with facility as dedicated stand-alone
8 DS1's and DS3's. What I think what the FCC -- I'm
9 sorry -- what the decision is saying it's --
10 again, everybody does this. Everybody has
11 different types of traffic on the same DS3 pipe
12 and some of that can be priced at TELRIC, some of
13 that can be priced at access, some of that can be
14 priced at anything.

15 Q. When you say everybody, can you
16 point me to one example of an interconnection
17 agreement in which a CLEC or a wireless carrier is
18 entitled to pay TELRIC prices for a DS3 entrance
19 facility on which the carrier transports both
20 interconnection traffic and backhaul traffic?

21 A. Well, I probably can't because the
22 ILEC's have been refusing for years to do just

1 that. Now that we have a Supreme Court that says
2 we are entitled to TELRIC pricing on
3 Interconnection Facilities without any words like
4 exclusively that AT&T wants to put in there, I
5 would like to think that -- I would like to think
6 that the words of the Supreme Court mean
7 something.

8 Q. So you're saying you don't -- that
9 you don't know whether there are any such
10 arrangements? You said everybody carries
11 interconnection and backhaul traffic on the same
12 DS3 facilities and my question was, does -- are
13 you aware of any situation where that happens and
14 the DS3 facilities actually base at TELRIC? Yes
15 or no? Are you aware of any such situation where
16 that occurs?

17 A. No, that's why we're here because
18 we're trying to get what the Supreme Court says
19 we're entitled to. That's why we're here. If we
20 were getting it, we wouldn't be here.

21 Q. Do you know if there have been any
22 arbitrations in any states related to this issue

1 since the Supreme Court has issued its decision or
2 do you think this is a case of first impression?

3 A. I don't know. It's the first one
4 Sprint has been involved in.

5 Q. You're aware of the fact that in an
6 arbitration proceeding involving numerous CLEC's
7 in Illinois in 2005 an arbitration related to
8 implementation of the provisions of the Triennial
9 Review Order and the Triennial Remand Order the
10 Illinois Commerce Commission did rule that AT&T
11 Illinois had an obligation to provide
12 Interconnection Facilities for the purpose of
13 interconnection and only for the purpose of
14 interconnection, correct?

15 A. I'm not aware of that. I'll accept
16 it.

17 Q. Okay. So at least in Illinois -- at
18 least in Illinois, CLEC's have had the ability
19 and, in fact, have amended interconnection
20 agreements to reflect the ability to order
21 Interconnection Facilities at TELRIC rates, would
22 you agree to that?

1 A. Under your so-called TELRIC model,
2 yes, I agree with that.

3 Q. Are you aware of any interconnection
4 agreement or amendment to any interconnection
5 agreement in Illinois since 2005 in which an ILEC
6 has been required to provide Interconnection
7 Facilities at TELRIC rates for the use of both
8 backhauling and interconnection?

9 A. No, and that's not what we're asking
10 for.

11 Q. Are you aware of any interconnection
12 agreement or amendment entered into that time --
13 since that time which allows a CLEC to use
14 capacity on a single DS3 facility for both
15 backhauling and interconnection?

16 A. Not that I'm aware of.

17 Q. Okay. Would you please turn to page
18 38 to 39 of your testimony. Now, there, beginning
19 at line 876 you're responding to two sentences
20 from page 41, lines 944 to 947 of Ms. Pellerin's
21 direct testimony, correct?

22 A. Yes.

1 Q. And if I understand what you're
2 saying in the answer, you say you agree with the
3 first sentence namely that, quote, Interconnection
4 Facilities are transmission facilities that
5 connect Sprint's network to AT&T Illinois' network
6 for the mutual exchange of traffic, end quote, is
7 that correct?

8 A. Yes.

9 Q. In the same answer at lines 893 to
10 895, however, you say that you disagree with the
11 statement you attribute to Ms. Pellerin, correct?

12 A. Yes.

13 Q. Where did she actually make the
14 statement that you're objecting at page 39, lines
15 893 to 895?

16 A. She says "By definition, therefore,
17 interconnections and facilities located entirely
18 on Sprint's side of the POI." The first sentence
19 doesn't even use the word POI. So the first
20 sentence --

21 Q. I'm sorry. I'm sorry. You're
22 quoting a sentence that says -- on 893, you say

1 that Ms. Pellerin declares that interconnection is
2 not, quote, transmission facilities that connect
3 Sprint's network to AT&T Illinois' network for
4 Sprint's exchange of traffic?

5 A. I'm sorry. Where are you at?

6 Q. I'm at line 893.

7 A. I'm sorry. I'm someplace else. We
8 had a misconnect here. Where are you at now?

9 Q. On page 39. It's an answer to --
10 the same answer in which you state, and I think
11 you confirmed, that you agree with the first
12 sentence that you quote in the question and now
13 I'm trying to understand where she made the
14 statement that you are disagreeing with as
15 discussed at line 893 to 894 of your testimony?

16 A. It begins on 878 where she continues
17 "By definition, therefore." There is two
18 sentences. The first sentence says
19 "Interconnection Facilities are" and the second
20 sentence says "By definition, therefore" and I
21 just don't see where she has those two sentences.
22 The first sentence sets up the second sentence,

1 but I don't see the connection between those two
2 sentences.

3 Q. Maybe this isn't a major point. I'm
4 just saying the words you quote and attribute to
5 her on lines 893 to 894 and you castigate her for
6 using the words Sprint rather than the term mutual
7 exchange in the context of Sprint's exchange of
8 traffic and you say "She was wrong to use the
9 phrase Sprint's exchange of traffic. It's more
10 appropriate to use the phrase mutual exchange of
11 traffic," correct?

12 A. Yes.

13 Q. And my question is where did she
14 make a statement that limits the definition of
15 interconnection to Sprint's exchange of traffic as
16 opposed to the mutual exchange of traffic? I'm
17 just trying to figure out where in her testimony
18 you think she said that.

19 A. Okay. I'm referring to the sentence
20 that I quote on 876 where she says
21 "Interconnection Facilities are transmission
22 facilities that connect Sprint's network to AT&T

1 Illinois' network" and I was making the
2 distinction there that I agree that as a facility
3 between the two networks, but I disagree with her
4 implication that it is Sprint -- that
5 interconnection is Sprint accessing AT&T's network
6 as an interconnection is some sort of privilege
7 granted to Sprint to enable it to exchange traffic
8 with AT&T. This is a mutual facility. We both
9 use it for the same exact matter.

10 Q. Mr. Farrar, in the sentence that you
11 quote in the question, on line 876 to 878 and I
12 believe this is an accurate quotation Ms. Pellerin
13 states "Interconnection facilities are
14 transmission facilities that connect Sprint's
15 network to AT&T Illinois' network for the mutual
16 exchange of traffic," correct?

17 A. Yes, she says that.

18 Q. She uses the term mutual exchange of
19 traffic and you say you agree with that sentence?

20 A. I agree with it to the extent -- now
21 I understand where you're coming from. First, I
22 say I agree with it and then I say I disagree with

1 it, but what --

2 Q. I'm sorry. When you disagree with
3 it, you're not quoting the same sentence,
4 Mr. Fararr. That's all I'm getting at. In the
5 sentence you say you agree with, she used the term
6 mutual exchange of traffic. Half a page later
7 you're saying you disagree with her statement
8 because she referenced Sprint's exchange of
9 traffic and I'm just trying to figure out was it a
10 mistake for you to put that in quotes? Did you
11 not mean to provide a direct quote from her
12 testimony? That's all I'm trying to figure out
13 where that comes from in her testimony.

14 A. I'm sorry. Can you tell me what
15 exact quote you think is wrong in that?

16 Q. Line 893 you say explicitly, quote,
17 interconnection, unquote, is not, quote,
18 transmission facilities that connects Sprint's
19 network to AT&T Illinois' network for Sprint's
20 exchange of network, unquote, as Ms. Pellerin
21 declares. Now, I took that to mean you were
22 quoting her. You didn't say imply or insinuate.

1 You used quotes and you said she declared that.

2 So I'm asking where did she declare that?

3 A. Okay. And there is -- the quote
4 mark is in the wrong spot. The quote mark should
5 be after the word -- at the word network.

6 Q. Okay. So she didn't declare -- make
7 that declaration with respect to Sprint's exchange
8 of traffic? She used the term mutual exchange of
9 traffic, which is the sentence you agree with?

10 A. Yes. I agree with the mutual
11 exchange of traffic. What I disagree, and this is
12 throughout her testimony, throughout AT&T's
13 position testimony, that if interconnection is
14 mutual, meaning look at the word mutual in the
15 dictionary, it benefits both parties.

16 MR. ANDERSON: Your Honor, the only
17 question I had was where does this sentence appear
18 in her testimony. We've spent five or ten minutes
19 on it now. It's kind of silly. This is not
20 appropriate to now give a speech about your
21 position, Sprint's position.

22

1 BY MR. ANDERSON:

2 Q. Now, just as a factual matter, do
3 you disagree with Ms. Pellerin's statement which
4 is the second of the two sentences you quote in
5 her answer -- in the question that we're talking
6 about?

7 Do you disagree with
8 Ms. Pellerin's statement that Interconnection
9 Facilities under the proposed contract, the
10 proposed ICA, are facilities located entirely on
11 Sprint's side of the POI? That's P-O-I.

12 A. Yes, I agree with the way the word
13 POI is used in the term. The Interconnection
14 Facilities are on Sprint's side of the POI. Yes,
15 I agree with that.

16 Q. Thank you. So, therefore, as a
17 matter of fact an Interconnection Facility as it
18 will be defined in the proposed ICA, I think you
19 agree, is located entirely on Sprint's side of the
20 POI, correct?

21 A. Yes.

22 Q. Thank you. Now, if you refer to

1 lines 953 to 962, there you cite an FCC Rule
2 47 C.F.R. Section 51.507(c), that's 507(c), as
3 support for Sprint's position on the sharing
4 issue, is that correct?

5 A. Yes.

6 Q. And would you agree that that rule
7 relates to the cost of, quote, shared facilities,
8 end quote?

9 A. Yes.

10 Q. And would you agree that the
11 Interconnection Facilities at issue in this case
12 are transport facilities?

13 A. Transport facilities in the generic
14 sense of transport, yes.

15 Q. And the Interconnection Facilities
16 at issue are entrance facilities that connect
17 Sprint's network from Sprint's switch or point of
18 presence within the LATA to the POI, which is a
19 point on AT&T Illinois' network at either an end
20 office or a tandem building, correct?

21 A. Yes.

22 Q. Would you agree that dedicated

1 transport includes ILEC transmission facilities
2 between wire centers or switches owned by the
3 ILEC's and switches owned by requesting
4 telecommunications carriers dedicated to a
5 particular customer or carrier?

6 A. Read that back again, please.

7 MR. ANDERSON: Can I have the
8 question read back, please?

9 JUDGE HAYNES: Can you rephrase it?

10 BY MR. ANDERSON:

11 Q. Would you agree that dedicated
12 transport includes ILEC transmission facilities
13 that extend between wire centers or switches owned
14 by the ILEC and switches owned by a requesting
15 telecommunications carrier and dedicated to a
16 particular carrier?

17 A. That is an example of a dedicated
18 facility, yes.

19 Q. Isn't that, in fact, part of the
20 definition of a dedicated facility in the federal
21 rules of the FCC rules?

22 A. I'm not familiar with the FCC's

1 definition. Can you show it to me?

2 Q. It's 51.319(d).

3 A. Can you show it to me, please?

4 MR. ANDERSON: May I approach the
5 witness?

6 JUDGE HAYNES: Yes.

7 BY MR. ANDERSON:

8 Q. I'm referring to the definition
9 there of dedicated transport and I --

10 MR. CHIARELLI: I would object on
11 relevancy. This is the UNE provisions.

12 BY MR. ANDERSON:

13 Q. Is it your position that an entrance
14 facility is not --

15 MR. CHIARELLI: Can I get a ruling
16 on my objection?

17 JUDGE HAYNES: I can't really hear
18 you when you're not at your mic. He objected on
19 relevancy because of the UNE provision.

20 MR. ANDERSON: Let me ask an
21 additional foundation question.

22

1 BY MR. ANDERSON:

2 Q. This rule defines dedicated
3 transport, correct?

4 MR. CHIARELLI: Objection.

5 MR. ANDERSON: This is a
6 foundational question.

7 JUDGE HAYNES: Go ahead. I'll see
8 where you're going with this. You can ask your
9 question.

10 MR. ANDERSON: He is taking a look
11 at it.

12 JUDGE HAYNES: Okay.

13 BY THE WITNESS:

14 A. Yeah. It says dedicated transport
15 includes. Again, dedicated transport is kind of a
16 generic term.

17 BY MR. ANDERSON:

18 Q. Right. It would include -- in this
19 definition, it would include transmission
20 facilities between, say, ILEC switches and it
21 would also include dedicated transmission
22 facilities between an ILEC switch and a competing

1 carrier switch?

2 A. Yes. Again, it's a generic term.

3 MR. CHIARELLI: Objection. I object
4 to the characterization that any definition in
5 this constitutes dedicated transport with respect
6 to interconnection between a requesting carrier
7 switch and an ILEC network.

8 JUDGE HAYNES: Respond to that.

9 MR. ANDERSON: I have another
10 foundational question which will tie it into the
11 issue we're talking about here.

12 JUDGE HAYNES: Okay. Do it then.

13 MR. ANDERSON: Okay.

14 BY MR. ANDERSON:

15 Q. Under the definition, do you see the
16 next section refers to availability of dedicated
17 transport?

18 MR. CHIARELLI: Are you pointing
19 to --

20 BY MR. ANDERSON:

21 Q. Under the provision dedicated
22 transport, there is a definition which he agreed

1 with me what the definition includes and under
2 that is a provision related to availability of
3 dedicated transport, correct?

4 A. Again, in context of unbundling.
5 Yes, that's what it says.

6 Q. Correct. And, in fact, that rule
7 says entrance facilities, it uses the term
8 entrance facilities, an incumbent LEC is not
9 obligated to provide a requesting carrier with
10 unbundled access to dedicated transport that does
11 not connect a pair of incumbent LEC wire centers,
12 correct?

13 A. Yes.

14 Q. And an entrance facility is an
15 example of dedicated transport, correct?

16 MR. CHIARELLI: Again, I'm going to
17 continue to object.

18 MR. ANDERSON: We've been talking
19 about the Talk America decision. The whole
20 premise of that was an appeal on the grounds that
21 the FCC had ruled that entrance facilities as
22 defined here were no longer to be unbundled for

1 purposes of 251(c)(3) and the Supreme Court ruled
2 and other courts have ruled that those same
3 facilities they be used for backhauling in which
4 case they're no longer to be unbundled or they can
5 be used for interconnection pursuant to 251(c)(2).
6 They were talking about the same animal. Entrance
7 facilities. So I'm just trying to ascertain that
8 the entrance facilities we're talking about here
9 are, in fact, a form of dedicated transport under
10 the FCC rules. That's my question.

11 MR. CHIARELLI: Objection. For
12 clarification. When he says here -- I'll say
13 vague and ambiguous. I don't know whether here
14 means as referred to in this rule or as used in
15 this case.

16 BY MR. ANDERSON:

17 Q. I'm talking about as we're talking
18 about in this case when we use the term
19 Interconnection Facilities we're talking about
20 entrance facilities, correct?

21 MR. CHIARELLI: Then I do again
22 object. If he is talking about the facilities in

1 this case, Interconnection Facilities, it has
2 nothing to do with this rule.

3 MR. ANDERSON: Let me ask another
4 question.

5 BY MR. ANDERSON:

6 Q. Do you have the language for Section
7 2.60 of the GT&C's which is the definition of
8 Interconnection Facilities?

9 JUDGE HAYNES: Is this somewhere in
10 the record where he can look at it?

11 MR. ANDERSON: One place it is is in
12 the DPL for issue 19. It's also in the
13 attachments to the petition and the response to
14 the petition. Although, I think --

15 JUDGE HAYNES: I've got DPL 19.
16 Thank you.

17 BY MR. ANDERSON:

18 Q. Do you have that?

19 A. I thought I addressed that in my
20 testimony. So I was trying to see if I had that
21 in my testimony someplace. I don't have the
22 actual --

1 MR. ANDERSON: May I approach the
2 witness and show him the definition?

3 JUDGE HAYNES: (Affirmative nod.)

4 BY MR. ANDERSON:

5 Q. Would you agree that in the last
6 sentence of the definition of Interconnection
7 Facilities as defined by Sprint the following
8 statement appears "For avoidance of doubt, but
9 subject to Attachment 2 Section 5.6, the
10 facilities referred to in this definition mean the
11 entrance facilities used for interconnection"?

12 A. Yes, that's what it says.

13 Q. So the Interconnection Facilities at
14 issue here is synonymous with the term entrance
15 facility, correct?

16 A. Yes.

17 Q. And entrance facility is a form of
18 dedicated transport, transport dedicated to a
19 particular carrier to interconnect with the ILEC's
20 switch, correct?

21 A. I think so. Read that back once
22 more, please?

1 (Whereupon, the record was read
2 as requested.)

3 MR. ANDERSON: I would say ILEC's
4 network.

5 BY THE WITNESS:

6 A. Yes, it's a dedicated network
7 between Sprint's network and AT&T's network.

8 BY MR. ANDERSON:

9 Q. Thank you very much. I should have
10 probably just asked you that question. By the
11 way, the MAP, that is capital M-A-P, all caps,
12 decision that you discuss at pages 43 to 44 does
13 not rely on 47 C.F.R. 51.507(c), correct?

14 A. That's correct. It relies on 703(b)
15 and 709(b).

16 Q. If you'll give me a second. I'm
17 attempting to locate my copy of that decision. I
18 have a question for you beginning at page four,
19 lines 1103 to 1104. Now, there, you indicate that
20 financial responsibility for the cost of Section
21 251(c)(2) Interconnection Facilities is governed
22 by FCC Rules 51.703(b) and 51.709(b), correct?

1 A. Yes.

2 Q. Both of those rules are included in
3 Subpart H of Part 51 of the FCC's rules, correct?

4 A. That's correct.

5 Q. The provisions of Subpart H apply to
6 reciprocal compensation for transport and
7 termination of Non-access Telecommunications
8 Traffic between LEC's and other telecommunications
9 carrier, is that correct?

10 A. Well, I agree with you that they are
11 in a section called reciprocal compensation, but
12 the FCC used those two rules in the exact same
13 manner that Sprint uses them.

14 MR. CHIARELLI: I'm going to object
15 as beyond the scope of my cross. I simply asked
16 whether --

17 JUDGE HAYNES: Overruled.

18 BY MR. ANDERSON:

19 Q. Well, have you -- would you agree
20 that Section 51.701, which is entitled Scope of
21 Transport and Termination Pricing Rules includes
22 the following statement? "The provisions of this

1 subpart apply to Non-access Reciprocal
2 Compensation for transport and termination of
3 Non-access Telecommunications Traffic between
4 LEC's and other telecommunications carriers?

5 A. I'm sure it says that.

6 Q. And these rules were promulgated to
7 implement Section 251(b)(5) of the 1996 Act,
8 correct?

9 A. Yes.

10 Q. Interconnection is governed by
11 Section 251(c)(2) of the 1996 Act, correct?

12 A. I made a noise. I didn't hear the
13 first part of that question.

14 Q. Interconnection is governed by
15 Section 251(c)(2) of the 1996 Act, correct?

16 A. Yes.

17 Q. Entrance facilities when used for
18 the mutual exchange of traffic fall within the
19 definition of interconnection as defined in FCC
20 Rule 51.5?

21 A. Correct, yes.

22 Q. Interconnection as defined in

1 Section 51.5 expressly excludes transport and
2 termination of traffic, correct?

3 A. Yes. The words are in there, but
4 they do not mean what AT&T --

5 MR. ANDERSON: I'm sorry. I move to
6 strike. I am not asking him for his opinion of
7 what AT&T thinks it means or whether what AT&T
8 thinks it means is right. I simply asked him a
9 simple question. And I believe the answer was yes
10 and after -- everything after that should be
11 stricken.

12 JUDGE HAYNES: Please limit your
13 answer to the actual question.

14 THE WITNESS: Yes. Okay. I will.

15 JUDGE HAYNES: So the answer was yes
16 and the rest will be stricken.

17 MR. ANDERSON: Thank you.

18 BY MR. ANDERSON:

19 Q. Would you agree that transport and
20 termination of traffic is subject to different
21 regulatory treatment than interconnection?

22 A. Yes.

1 Q. Would you also agree that
2 compensation for transport and termination is
3 governed by statutory provisions, rules and
4 regulations that differ from the statutory
5 provisions and regulations applicable to
6 interconnection?

7 MR. CHIARELLI: I object.
8 Overbroad. Absolutely overbroad, vague and
9 ambiguous to the extent he is sweeping a statement
10 with no reference to any rules --

11 BY MR. ANDERSON:

12 Q. Didn't you say you're familiar with
13 the Talk America decision, correct? In fact, you
14 cite it extensively in your testimony, correct?

15 A. Yes.

16 Q. Would you please refer to pages
17 11 -- bottom of page 11 to the top of page 12 of
18 the Talk America decision, of the slip opinion,
19 which I believe is the version you have.

20 A. I'm sorry. What page do you want me
21 to look at?

22 Q. The bottom of page 11, the top of

1 page 12.

2 JUDGE HAYNES: What page is the slip
3 opinion?

4 MR. ANDERSON: I'm sorry?

5 JUDGE HAYNES: If it's not the slip
6 opinion, what page am I looking at or is this the
7 same quote you were quoting before?

8 MR. ANDERSON: No, it's a different
9 quote.

10 JUDGE HAYNES: Just give me the
11 quote and I'll find it.

12 MR. ANDERSON: I can probably give
13 that to you. I have the Supreme Court decision,
14 but I don't have the parallel cite at my
15 fingertips.

16 JUDGE HAYNES: Go ahead then.
17 Nevermind.

18 BY MR. ANDERSON:

19 Q. Does it not say at the top of page
20 12, quote, compensation for transport and
21 termination that is for delivering local telephone
22 calls placed by another carrier's customer is

1 governed by separate statutory provisions and
2 regulations?

3 A. Yes, that is what it says.

4 Q. And do you understand the Supreme
5 Court there to be referring to by the term
6 separate statutory provisions and regulations,
7 statutory provisions and regulations separate from
8 those that govern interconnection?

9 A. I'm going to try to answer your
10 question. Transport and termination are the two
11 components of the reciprocal compensation and
12 reciprocal compensation is different from
13 interconnection and that's what it means.

14 Q. So my question, and I think maybe
15 you'll agree with this now, my question was simply
16 as you read the first sentence at the top of page
17 12 where it says "Compensation for transport and
18 termination is governed by separate statutory
19 provisions and regulations" the Supreme Court was
20 referring to there were statutory provisions and
21 regulations separate from those statutory
22 provisions and regulations that govern

1 interconnection as opposed to the transport and
2 termination of traffic, correct?

3 A. Yes, but I simply want to add that,
4 again, transport and termination by definition is
5 referencing reciprocal compensation.

6 Q. And would you also agree that a
7 competitive LEC typically pays one fee for
8 interconnection, that is just for having the link
9 that connects its network with the ILEC's network
10 for the mutual exchange of traffic, and then an
11 additional fee for transport and termination?

12 A. Again, yes, but, again, transport
13 and termination is reciprocal compensation that is
14 paid to the terminating carrier whereas
15 interconnection is a leased facility from likely a
16 different carrier.

17 Q. Now, a Non-access Reciprocal
18 Compensation arrangement between two carriers is
19 either a bill-and-keep arrangement or an
20 arrangement in which each carrier receives
21 intercarrier compensation for the transport and
22 termination of Non-access Telecommunications

1 Traffic, correct?

2 MR. CHIARELLI: Can you read the
3 question back, please?

4 JUDGE HAYNES: You know, can you
5 restate your question, please.

6 BY MR. ANDERSON:

7 Q. Well, I'll just quote the rule. The
8 rule I'm quoting is, again, part of Subpart H
9 51.701(e) and there it states "For purposes of
10 this subpart, a Non-Access Reciprocal Compensation
11 arrangement between two carriers is either a
12 bill-and-keep arrangement, per Section 51.713, or
13 an arrangement in which each carrier receives
14 intercarrier compensation for the transport and
15 termination of Non-Access Telecommunications
16 Traffic," correct?

17 A. Yes.

18 Q. Would you agree that 51.705 governs
19 the establishment of local exchange carrier's
20 rates for transport and termination?

21 MR. CHIARELLI: Objection to the
22 extent he doesn't qualify for Non-access

1 Telecommunications Traffic.

2 MR. ANDERSON: I'm just asking what
3 that rule --

4 MR. SCHIFMAN: Does he have it?

5 THE WITNESS: I don't have it. May
6 I see the rule, please?

7 BY MR. ANDERSON:

8 Q. Rule 51.705 is entitled LEC's rates
9 for transport and termination, correct?

10 A. Yes.

11 Q. And 51.705(b) discusses the
12 establishment of LEC's rates for transport and
13 termination, correct?

14 A. Yes.

15 Q. Now, in this case, there is no need
16 for --

17 MR. CHIARELLI: You're referring to
18 (b)?

19 MR. ANDERSON: Yes.

20 MR. CHIARELLI: I'll impose an
21 objection because (b)1 I believe is talking about
22 rates with respect to a telecom carrier other than

1 a CMRS provider.

2 MR. ANDERSON: Well, my question
3 wasn't related specifically to CMRS. That was my
4 next question. I'm just saying that 51 -- there's
5 not really a dispute here. 51.705(b) discusses
6 establishment of incumbent LEC's rates for
7 transport and termination and then there's some
8 provisions that describe what those rates are or
9 should be and one of the described rates is a
10 bill-and-keep arrangement and I'm just saying --

11 MR. CHIARELLI: Ultimately, there
12 may be no dispute here. I'm just saying the
13 way -- the objection is as to the form of the
14 question. To the extent it is focused only on
15 (b), (b) is directed at compensation with a CLEC
16 whereas (a) is directed at compensation with a
17 CMRS carrier and you're excluding one if you're
18 just referencing (b). So it's as to the form of
19 the question.

20 MR. ANDERSON: And I have no problem
21 with your clarification.

22

1 BY MR. ANDERSON:

2 Q. I'm just -- my next question was
3 with respect to traffic exchanged between local
4 exchange carriers and CMRS providers and
5 particularly between AT&T Illinois and Sprint that
6 is by default subject to bill-and-keep, correct?

7 A. Yes.

8 Q. And so there would be no need for
9 the Commission to establish rates for the
10 transport and termination of Non-access
11 Telecommunications Traffic in this case, correct?

12 A. That's correct.

13 Q. Now, Rule 51.709, which is again in
14 Subpart H, that is entitled Rate Structure for
15 Transport and Termination, correct?

16 A. Yes, it is.

17 Q. And as indicated in Subpart A, Rule
18 51.709 is a rule that requires state commissions
19 to apply certain rate structure principals to the
20 establishment of initial rates for the transport
21 and termination of Non-access Telecommunications
22 Traffic where a rate for Non-access Reciprocal

1 Compensation did not exist as of December 29th,
2 2011, correct?

3 MR. CHIARELLI: Objection to the
4 extent you're -- he is just phrasing with respect
5 to one paragraph, one item. Vague and ambiguous
6 as to the scope of his question.

7 JUDGE HAYNES: Can you clarify?

8 MR. ANDERSON: I'll show him this.
9 I think it's a legitimate question.

10 BY MR. ANDERSON:

11 Q. I'm just asking if 51.709(a)
12 describes the purpose of that rule.

13 A. Yes, the purpose of these rules
14 establish the pricing rules that are generally
15 referred to as TELRIC. What we're missing here is
16 that Section 51.501 says "Explicitly these pricing
17 rules apply to interconnection." So to the extent
18 that interconnection is subject to TELRIC, all
19 these pricing rules we're talking about, they
20 don't apply simply to recip comp. They also apply
21 to interconnections and interconnections have the
22 same rules.

1 Q. Show me in Subpart H any statement
2 that those rules apply to anything other than the
3 transport and termination of traffic?

4 A. You won't find it in that section.
5 You will find it in 55.501(a).

6 Q. Now, I think I had a question
7 pending when there was an objection and I'm going
8 to try it again.

9 Would you agree that indicated
10 as Subpart H -- I'm sorry. Subsection A of Rule
11 51.709 that that rule requires state commissions
12 to apply certain rate structure principals to the
13 establishment of initial rates for the transport
14 and termination of Non-access Telecommunications
15 Traffic where a rate for Non-access Reciprocal
16 Compensation did not exist as of December 29th,
17 2011?

18 A. I'm sure those are the words.

19 Q. In fact, it says that those rates
20 are to be structured consistently with the manner
21 that carriers incur those costs and consistently
22 with the principals in this section, correct?

1 A. Yes.

2 Q. And the principals in this section
3 would refer to principals identified in Section
4 51.709, correct?

5 A. Yes.

6 Q. And those principals would include
7 the principals set forth in 51.709(b), correct?

8 A. Yes, but those pricing rules also
9 apply to interconnection for 51.501(a).

10 Q. 51.501 -- what was the rule?

11 A. 51.501(a).

12 Q. 51.501(a). That is in Subpart F
13 entitled pricing of elements, correct?

14 A. Okay. Yes.

15 Q. And does it state in 51.501(a) the
16 following "The rules in this subpart apply to the
17 pricing of network elements, interconnection and
18 methods of obtaining access to unbundled elements
19 including physical collocation and virtual
20 collocation"?

21 A. Yes, it is referring to the TELRIC
22 pricing rules. The TELRIC pricing rules apply to

1 interconnection.

2 Q. There is nothing in 51.501(a) that
3 refers to transport and termination, correct?

4 A. Can I see that whole rule, please?
5 51.501 is Subpart -- I'll read the whole thing.
6 "Subpart F, pricing of elements. 51.501(a), the
7 rules of this subpart apply to the pricing of
8 network elements, interconnection, and methods of
9 obtaining access to unbundled network elements
10 including physical collocation and virtual
11 collocation. (B), as used in this subpart, the
12 term element includes network elements,
13 interconnection, and methods of obtaining
14 interconnection and access to unbundled elements.
15 This is referring -- the pricing of elements
16 refers to the TELRIC pricing standard."

17 So all this is telling me is
18 that the TELRIC pricing standard not only does it
19 apply to recip comp, but it also applies to
20 network elements, interconnection, unbundled
21 elements. The TELRIC standard applies to
22 everything. It's a generic standard that the FCC

1 applies to everything.

2 Q. Okay. 51.709 is a rule that relates
3 to rate structure for transport and termination,
4 correct?

5 A. Yes, the two components of recip
6 comp.

7 Q. Right. And there is no -- there is
8 no reference in 51.501 to 51.709, is there? Does
9 51.501 incorporate by reference anywhere you can
10 see the rules in 51.709?

11 A. Yes, I agree with you.

12 Q. Thank you. And there is no
13 reference to Section 51.501 to transport and
14 termination of traffic governed by 251(b)(5),
15 correct?

16 A. Yes, that's correct.

17 Q. All right. Now, at page 43 of your
18 rebuttal, you begin a discussion of the MAP mobile
19 decision. That's MAP, all caps, mobile decision,
20 correct?

21 A. I'm sorry. Where are you again?

22 Q. Forty-three. Unless I'm mistaken.

1 A. Yes.

2 Q. First of all, you refer to that
3 decision as a decision of the FCC or Federal
4 Communications Commission, correct?

5 A. Yes.

6 Q. The decision was issued by the chief
7 of the FCC's enforcement bureau, not by the FCC
8 itself, correct?

9 A. I don't know that. I'll accept
10 that.

11 Q. It's an exhibit to your testimony,
12 correct?

13 A. Yes.

14 Q. Okay. And if you look at the cover
15 it would indicate that it was issued by the chief
16 of the enforcement bureau, is that correct?

17 A. That's correct.

18 Q. Now, that case involved a dispute
19 over charges for the transport and termination of
20 traffic, correct? And if you'll like, I'll refer
21 you to paragraphs one and two of that decision.

22 MR. CHIARELLI: Objection. The case

1 speak for itself to the extent --

2 MR. ANDERSON: I have a number of
3 questions about this case and Mr. Farrar's
4 understanding of it. I believe that question was
5 proper. The other questions are proper. He is
6 relying substantially on it. He is quoting
7 extensively from it. I should be able to ask him
8 about his understanding of the case.

9 MR. CHIARELLI: And I have no
10 objection to you asking a question. The question
11 was the representation as to what the scope of the
12 case was.

13 MR. ANDERSON: I'm asking him
14 whether he agrees. He can disagree if he wants.
15 I'm just referring him to paragraphs one and two
16 if he wants to look at it. Can I have the
17 question read back, please?

18 JUDGE HAYNES: Go ahead. Thank you.

19 (Whereupon, the record was read
20 as requested.)

21 JUDGE HAYNES: The witness can
22 answer that question.

1 BY THE WITNESS:

2 A. Yes, that's one of the things it
3 considers, yes.

4 BY MR. ANDERSON:

5 Q. Okay. What else was it about?

6 A. It was also about interconnection.

7 Q. Where does it say interconnection in
8 the first paragraph or the second paragraph?

9 A. It doesn't.

10 Q. In fact --

11 A. My testimony being on page 43 has
12 lots of references to interconnection.

13 Q. Okay. In fact, in the last sentence
14 of -- on page one of the decision, does it not
15 state as follows? "In short, the complaint
16 alleges that defendants violated Section 201(b),
17 251(b)(5) and 415 of the Act and Sections 20.11,
18 51.703 and 64.2401 of the Commission's rules by
19 (a) unlawfully charging MAP or transport and
20 termination of defendant originating traffic and,
21 two, services that MAP canceled or never
22 requested, (b) failing to pay MAP for terminating

1 local traffic, (c) providing unclear and confusing
2 bills and (d) demanding payment of charges that
3 were more than two years old." That's what the
4 complaint was as summarized and described by the
5 FCC or the chief of the enforcement bureau in the
6 first paragraph, correct?

7 A. That's what the words say.

8 Q. Interestingly enough, there is no
9 reference to an allegation that the defendants
10 violated Section 251(c)(2) of the 1996 Act, which
11 is the section governing interconnection, would
12 you agree?

13 A. I will agree that the first two
14 paragraphs don't refer to that.

15 Q. But they do refer specifically to
16 allegations that the defendants violated Section
17 251(b)(5) which governs transport and termination
18 of traffic, correct?

19 A. Yes.

20 Q. By the way, I think in your
21 testimony you refer to the CMRS carrier in that
22 case. Just to be clear. The carrier or the

1 wireless carrier involved in that case or MAP
2 mobile was a one-way paging carrier, correct?

3 A. That's correct.

4 Q. And with a one-way paging carrier,
5 the traffic all goes in one direction from the
6 LEC, or the Local Exchange Carrier, to the paging
7 carrier, correct?

8 A. Yes.

9 Q. The paging carrier does not exchange
10 any traffic with the local exchange carrier,
11 correct?

12 A. It does not originate any traffic,
13 correct.

14 Q. But it doesn't send any traffic
15 back, it just receives traffic from the LEC,
16 right?

17 A. Yes, and that's exchanging traffic.

18 Q. That's exchanging traffic when it's
19 just one way?

20 A. Sure.

21 Q. If I give you \$100 and you don't
22 give me anything back, are you exchanging money

1 with me?

2 A. Yeah, you exchanged \$100 with me.

3 Q. Okay. It's not going to happen.

4 Now, referring to page 43, line 970, in your
5 testimony.

6 A. I'm sorry. Where are you at?

7 Q. Page 43, line 970. Now, there, you
8 stated that in the MAP decision the FCC, quote,
9 ruled that Illinois Bell, i.e., AT&T Illinois,
10 could not bill a CMRS carrier for Interconnection
11 Facilities used to deliver Illinois Bell
12 originated traffic on the CMRS carrier's side of
13 the point of interconnection on AT&T Illinois'
14 network, unquote, is that correct?

15 A. That's what I said, yes.

16 Q. So if I understand that statement,
17 that statement is based upon your understanding
18 that the point of interconnection, or POI, at
19 issue in that case was located on AT&T Illinois'
20 network, correct?

21 A. That's what it says, right.

22 MR. CHIARELLI: Can you read that

1 question back, please?

2 BY MR. ANDERSON:

3 Q. With reference -- I'll just ask it
4 again. With reference to your testimony at page
5 43, line 970, that statement reflects an
6 understanding on your part that the POI at issue
7 in the MAP mobile case was located on AT&T
8 Illinois' network, correct? I mean, that's what
9 it says. I'm not sure what the issue is.

10 A. Yeah. Because the issue is -- yes.

11 Q. And as a result it's your
12 understanding that the Interconnection Facilities
13 at issue in that case or that you discuss were
14 located on the paging carrier's side of that POI
15 located on AT&T's network, correct?

16 A. I don't see how it matters because
17 again --

18 Q. I'm sorry. I'm going to stop you
19 right there. I'm just asking you what your
20 understanding is. I'm not asking whether you
21 think it matters or not. I'm just simply asking
22 you what is your understanding based on your

1 description of the holding or your
2 characterization of the ruling in that case.

3 Was it your understanding that
4 in that case the Interconnection Facilities were
5 located on the paging carrier's side of the POI
6 which you just indicated you believe was located
7 on AT&T Illinois' network?

8 A. Yes.

9 Q. Isn't it true that, in fact, the
10 POI's at issue in that docket were not located on
11 AT&T Illinois' network or any other ILEC network,
12 but rather were located on MAP's network?

13 A. I don't know.

14 Q. Did you review -- well, did you
15 review paragraph 26 of the MAP decision?

16 A. I see that one.

17 Q. And in paragraph 26 does that not
18 indicate -- paragraph 26 along with footnote 75
19 that the POI's were located at MAP's paging
20 terminal and not at an AT&T Illinois tandem or end
21 office?

22 A. Yes, the last sentence implies that

1 according to Bell and Midwest ILEC's that the POI
2 was not at their tandem.

3 Q. Right. And, in fact, it wasn't even
4 on their network. It was located on the paging
5 terminal -- MAP's paging terminal which would be
6 on their network, correct? MAP's network,
7 correct --

8 A. Yes.

9 Q. -- footnote 75? Now, at page 44 of
10 your testimony, you quote a portion of paragraph
11 31 from the MAP mobile position, correct?

12 A. Yes.

13 Q. And I notice that you have ellipses
14 there after the word originate?

15 A. Yes.

16 Q. Indicating that you excluded a
17 portion of that paragraph?

18 A. Yes.

19 Q. And would you agree that the portion
20 of the paragraph that you excised or excluded by
21 the use of those ellipses included the actual
22 holding of the enforcement bureau chief on this

1 issue?

2 A. Okay. Yes.

3 Q. And, in fact, you omitted the -- the
4 very next sentence after the sentence you quote
5 says "The parties did not have an interconnection
6 agreement that required the POI to be located in a
7 central or tandem office within SWBT's or the
8 Midwest ILEC's network," correct?

9 A. Yes. That's what the next sentence
10 says, yes.

11 Q. And then two sentence down from that
12 the decision states as follows "As applied to
13 these facts, the Act and implementing Commission
14 rules and orders prohibit SWBT and the Midwest
15 ILEC's from charging MAP for the Interconnection
16 Facilities and services they provided to MAP to
17 the extent such facilities and services were used
18 to deliver Intra-MTA traffic originated on their
19 network to MAP's point of interconnection"?

20 A. That's what it says.

21 Q. Right.

22 A. So the finding was premised on the

1 facts that the POI was on MAP's network and that
2 the Interconnection Facilities at issue were
3 located on MAP's -- I'm sorry. On AT&T's or
4 SWBT's -- the ILEC's side of the POI. Not on
5 MAP's side of the POI.

6 MR. CHIARELLI: I do object to that.
7 The case speaks for itself where the facilities
8 were located with respect to what they could and
9 couldn't charge for.

10 JUDGE HAYNES: Was your objection
11 that it calls for a legal conclusion?

12 MR. CHIARELLI: Yeah.

13 JUDGE HAYNES: Sustained.

14 BY MR. ANDERSON:

15 Q. Is there any reason why you decided
16 to omit that language or for that matter any of
17 the language from 26 or footnote 75 indicating the
18 location of the POI or the holding and the facts
19 relied on by the FCC or the enforcement bureau
20 chief in reaching its conclusion? Did you just
21 think it wasn't important?

22 A. Yes, there was a reason. There was

1 nothing nefarious about it. My point I was trying
2 to make is that the FCC believes that Rule 71 --
3 I'm sorry. 51.703(b) and 51.709(b) apply to the
4 issue, which is exactly what Sprint's issue is and
5 I do not believe the location of the POI has
6 anything to do with who is financially responsible
7 for the Interconnection Facility.

8 Q. But you wouldn't be able to glean
9 that from this decision, right? I mean, the
10 holding in this decision is perfectly consistent
11 with the position of AT&T Illinois and staff that
12 each party is responsible for the facilities on
13 its side of the POI, correct?

14 MR. CHIARELLI: Same objection.

15 JUDGE HAYNES: Sustained.

16 BY MR. ANDERSON:

17 Q. By the way, in the last sentence of
18 paragraph 31, the chief indicates that the
19 analysis here is limited to the facts of this
20 case, correct.

21 A. Yes.

22 MR. CHIARELLI: Objection to the

1 extent -- that's fine. That's fine.

2 BY MR. ANDERSON:

3 Q. Page 49, lines 1131 to 1138.

4 MR. ANDERSON: May I take a quick
5 break? May I take a one minute break?

6 JUDGE HAYNES: Yes, I'll note you're
7 over your estimate.

8 MR. ANDERSON: I hope you noticed
9 that we were under our estimates on Mr. Burt and
10 that staff and AT&T Illinois combined were
11 cumulatively under our estimates on the first two
12 witnesses. So I hope you'll allow me --

13 JUDGE HAYNES: I haven't cut you
14 off.

15 MR. ANDERSON: Thank you.

16 (Whereupon, a break was taken
17 after which the following
18 proceedings were had.)

19 JUDGE HAYNES: Back on the record.

20 MR. ANDERSON: Thank you very much.

21 BY MR. ANDERSON:

22 Q. Mr. Fararr, will you please refer to

1 page 49, lines 1131 to 1138. There, you discuss a
2 comparison of two diagrams presented by
3 Ms. Pellerin at pages seven and nine of her direct
4 testimony and with respect to those diagrams you
5 state that the only difference between her
6 depiction of the CMRS model, which is all caps,
7 and the 251(c)(2) model is that in the CMRS model
8 both ends of the Interconnection Facility are
9 labeled POI while in the 251(c)(2) model only the
10 end point at the AT&T side of the Interconnection
11 Facility is labeled POI?

12 Now, you claim this distinction,
13 quote, exists only in the testimony of AT&T,
14 unquote, is that correct?

15 A. Yes.

16 Q. Would you agree that the parties'
17 currently effective interconnection agreement
18 expressly provides for points of interconnection,
19 or POI's, on both the ILEC and the CMRS networks?

20 A. Well, it very well may. I was
21 referring to simply the network design. There is
22 an Interconnection Facility, it touches our

1 network, it touches your network. Yeah, there are
2 endpoints. POI is not -- again, is not a defined
3 term. You want to call one of those endpoints a
4 POI, you want to call them both a POI, you can
5 call neither one a POI. There is no network
6 difference.

7 Q. Okay.

8 MR. ANDERSON: Can I hear the first
9 part of that answer read back?

10 (Whereupon, the record was read
11 as requested.)

12 MR. ANDERSON: I'm going to move
13 to strike that answer after "it very well may" as
14 being nonresponsive. It was simply asking whether
15 the parties' currently effective current
16 interconnection agreement expressly provides for
17 points of interconnection, or POI's, on both the
18 ILEC and CMRS network. It's just a factual
19 question.

20 MR. CHIARELLI: But my response
21 would be it was asked in the context of his
22 testimony so he was explaining with respect to his

1 testimony any relationship at all that may have
2 existed between the agreement that he cited and
3 his testimony.

4 JUDGE HAYNES: His answer will
5 remain in the record.

6 BY MR. ANDERSON:

7 Q. Well, when you refer to Section
8 2.3.2 of the current agreement --

9 A. 2.3.2?

10 Q. Correct. Before we get to that, let
11 me ask another question. Did I understand you to
12 say in the answer you just gave to my previous
13 question that POI is not a defined term?

14 A. It's not a defined term in the FCC
15 rule.

16 JUDGE JORGENSEN: Can you speak into
17 the microphone, please?

18 BY THE WITNESS:

19 A. It's not a defined term in the FCC
20 rules or in the telecom MAP.

21 BY MR. ANDERSON:

22 Q. Is it a defined term in the parties'

1 interconnection agreement, the currently effective
2 interconnection agreement?

3 A. I believe it is.

4 Q. And is it defined to mean a point of
5 interconnection between SBC-13STATE network and
6 SBC -- SPCS's network, which refers to Sprint's
7 network?

8 MR. CHIARELLI: I do object if
9 you're referring to the definition itself as an
10 incomplete reference to the definition.

11 BY MR. ANDERSON:

12 Q. Okay. 1.44 defines POI to mean "A
13 point of interconnection between SBC-13STATE's
14 network and SPCS's network. The POI is the meet
15 point for the facilities that provides the
16 physical linking of the parties' networks. Each
17 POI shall be within the SBC-13STATE territory."
18 That definition exists in the current agreement?

19 A. Yes.

20 Q. And at 2.3.2 -- I'm sorry. 2.3.1.1
21 provides that a POI may be located at an
22 SBC-13STATE office where the facilities terminate,

1 typically a tandem office, or (b) a carrier's
2 office where the facilities terminate or (c) other
3 mutually agreeable location, correct?

4 A. Yes, that's what it says.

5 Q. And in Subpart B the term carrier
6 refers to Sprint, correct?

7 A. I don't know.

8 Q. Do you think it means some other
9 entity other than Sprint?

10 A. AT&T is a carrier. So I really
11 don't know. I don't know.

12 Q. Okay. In the preceding paragraph,
13 2.3.1, does it not refer to -- does it not include
14 the sentence "carrier and SBC-13STATE shall
15 mutually agree on a POI for each trunk group"?

16 MR. CHIARELLI: Mr. Anderson, I'd be
17 willing to stipulate if you're just referring him
18 to the intro paragraph to clear it up. I don't
19 have a problem with that.

20 BY MR. ANDERSON:

21 Q. The term carrier refers to Sprint?

22 A. Yes, I agree with you.

1 Q. And in 2.3.2 provides that "Unless
2 otherwise mutually agreed, for delivery of traffic
3 over mobile-to-land or two-way trunks, the
4 POI shall be established to each SBC-13STATE
5 tandem switch or end office switch where trunking
6 is required under this Agreement," correct?

7 A. Yes, that's what it says.

8 Q. So, in that scenario, the agreement
9 provides that on mobile-to-land traffic the POI is
10 to be established on SBC's network, correct, or
11 AT&T Illinois as it applies here?

12 A. Yes.

13 Q. And conversely under Section 2.3.3
14 provides that for delivery of traffic,
15 land-to-mobile -- traffic over land-to-mobile
16 trunks, the POI is to be established either at the
17 Sprint MSC, right, which is a point on Sprint's
18 network, correct?

19 A. Yes.

20 Q. Or carrier's designated point of
21 presence within the LATA, correct?

22 A. Yes.

1 Q. Okay. Now, I think we may have
2 previously discussed this, but Sprint and AT&T
3 have agreed for purposes of the proposed ICA at
4 issue in this case, the POI is defined as a point
5 on AT&T Illinois' network, for example, an end
6 office or tandem building, correct?

7 A. That's my understanding, yes.

8 Q. There is no reference anywhere in
9 the proposed agreement either in language proposed
10 by Sprint or agreed to by both parties to a POI
11 located on Sprint's network, correct?

12 A. That's my understanding, yes.

13 Q. And Sprint and AT&T of Illinois have
14 agreed that for purposes of the proposed agreement
15 Interconnection Facilities as they are to be
16 defined for purposes of this ICA are facilities
17 that connect Sprint's network from Sprint's switch
18 or associated point of presence in the LATA to the
19 POI, right? That's part of the definition,
20 correct?

21 A. Can you show me the definition? I
22 believe that's correct, but before I say --

1 Q. GT&C Section 2.60. If you have that
2 handy, fine. Otherwise, I'll find it.

3 A. What am I looking for?

4 Q. GT&C Section 2.60, which if you have
5 the DPL is also the subject --

6 MR. SCHIFMAN: He doesn't have it.
7 Here.

8 JUDGE HAYNES: What issue number on
9 the DPL?

10 MR. SCHIFMAN: The proposed
11 agreement.

12 MR. ANDERSON: Issue 19.

13 BY MR. ANDERSON:

14 Q. Do you have an answer?

15 A. I don't remember the question.

16 Q. I just asked you whether Sprint and
17 AT&T Illinois have agreed that Interconnection
18 Facilities as defined for purposes of the new ICA
19 are facilities that connect Sprint's network from
20 Sprint's switch or associated points of presence
21 in the LATA to the POI on AT&T's network?

22 A. I don't think those are the exact

1 words, but generally speaking, yes.

2 Q. Thank you. And I think you just
3 stated and I have these questions -- I may have
4 asked this, but just to make sure this is in the
5 record.

6 The proposed ICA does not make
7 any reference to POI's on Sprint's network,
8 correct?

9 A. That's my understanding.

10 Q. And would you agree that ICA's that
11 AT&T Illinois has entered into with CLEC's are
12 similar to the proposed ICA in this case in that
13 the POI is defined as a point of interconnection
14 on AT&T Illinois' network and that there are not
15 provisions identifying or referring to POI's on
16 the CLEC's network?

17 MR. CHIARELLI: Calls for
18 speculation.

19 MR. ANDERSON: I'll ask him.

20 BY MR. ANDERSON:

21 Q. Do you know whether there are any
22 interconnection agreements between AT&T Illinois

1 and CLEC's that identify a POI on both the ILEC
2 network and on the CLEC network?

3 A. I think I'll answer your question,
4 yes, my understanding is that you have created two
5 separate models. One for CMRS and one for CLEC's
6 and one has one POI and one has two POI's. That's
7 my general understanding of it, yes.

8 Q. When you say we have created, the
9 1996 Act was adopted in 1996 and the FCC issued
10 regulations that same year implementing the 1996
11 Act and since that time ILEC's all over the
12 country, including AT&T Illinois and its
13 predecessors, have entered into interconnection
14 agreements with CLEC's, correct?

15 A. Yes.

16 Q. Those interconnection agreements
17 would be the subject of arbitration and mediations
18 and they would not be all the creation of AT&T
19 Illinois, correct?

20 MR. CHIARELLI: Calls for
21 speculation.
22

1 BY MR. ANDERSON:

2 Q. Do you believe that the provisions
3 of all interconnection agreements entered since
4 the 1996 Act are a creation of AT&T Illinois?

5 A. I don't know what you mean by
6 creation of AT&T Illinois. Obviously, if it's
7 been negotiated, both parties have agreed to the
8 terms in that interconnection agreement. My point
9 and my testimony is there is nothing in the FCC
10 rules that describe a separate set of
11 interconnection rules that apply to CLEC and a
12 separate set of interconnection rules that apply
13 to CMRS carriers.

14 Q. All I'm asking is whether you would
15 agree that as a general matter from the '96 Act
16 until today interconnection agreements between
17 ILEC's and CLEC's identify a POI on the ILEC
18 network, but do not refer to POI's being located
19 on the CLEC network if you know?

20 MR. CHIARELLI: Objection.
21 Relevance.

22 MR. ANDERSON: The relevance is he

1 is suggesting that something we're talking about
2 in this case is something we're just making up
3 when it's simply the product of --

4 JUDGE HAYNES: Overruled. He can
5 answer the question.

6 BY THE WITNESS:

7 A. The two interconnection model does
8 not exist in the rules. So, yes, AT&T did make it
9 up. The fact that other carriers have agreed to
10 it in mutually negotiated interconnection
11 agreements does not change the fact that this is
12 not -- this is not described in the rules.

13 BY MR. ANDERSON:

14 Q. I'm sorry. You're saying AT&T made
15 up the concept of having POI's on both the CMRS
16 network and the LEC network in interconnection
17 agreements with CMRS providers, is that what
18 you're saying? That AT&T made that up?

19 A. No. What you've made up is this
20 whole idea of a transition, that we are somehow
21 transitioning from one model to another model.
22 That is what I'm objecting to. We're not

1 transitioning to anything.

2 MR. ANDERSON: I'm going to move to
3 strike that. I'm not asking him about
4 transitioning. This line of questions goes back
5 to a statement in his testimony that the
6 distinction between the diagram and Ms. Pellerin's
7 testimony where she identifies POI's on both the
8 CMRS and the ILEC network compare to the diagram
9 which identifies a POI only on the ILEC's network
10 in what we're calling the 251(c)(2) model that
11 that exists only in her testimony and now I'm also
12 asking in relation to his question -- or his
13 apparent testimony that AT&T made all this up
14 itself. That's what I'm asking. That's what I'm
15 going to.

16 BY MR. ANDERSON:

17 Q. Is it your testimony that -- would
18 you agree -- let me just ask this. Would you
19 agree this is not something that is appearing for
20 the first time in Ms. Pellerin's testimony, that,
21 in fact, there is a history of having
22 interconnection arrangements between ILEC's and

1 CMRS providers that identify POI's on both the
2 CMRS providers and the ILEC's network, but that in
3 connection with CLEC interconnection agreements
4 the typical arrangement, and to my knowledge the
5 only arrangement, has been to have a POI specified
6 as being only on the ILEC's network?

7 JUDGE HAYNES: That was like three
8 questions in one. Do you want to focus on a
9 particular statement and ask one question on that
10 because you're going to get a long answer then?

11 BY MR. ANDERSON:

12 Q. Do you still believe given the
13 information that we went through in terms of the
14 interconnection agreement which identifies POI's,
15 specifically identifies POI's on both the wireless
16 and the ILEC carriers networks, an interconnection
17 agreement that was entered into in 2000- -- in
18 2003, are you still stating that this distinction
19 between the way that the POI is defined and
20 identified in the agreement with CLEC's as
21 compared to the way the POI's are identified and
22 defined in agreements with Sprint and other CMRS

1 carriers is something that appeared for the first
2 time in Ms. Pellerin's testimony or something she
3 is just making up in her testimony?

4 A. That's not my testimony. I did not
5 say that in my testimony. What I said is it is
6 not supported by the rules.

7 Q. You say this exists entirely in the
8 testimony of AT&T. So you agree now that it's not
9 a concept that exists entirely in the testimony of
10 AT&T, correct?

11 A. All I'm saying is it's not a concept
12 that exists in the FCC rules. That's all I've
13 said.

14 Q. And is that possible because the
15 interconnection agreements and arrangements
16 entered into between ILEC's and CMRS providers
17 such as AT&T Illinois and Sprint are provisions
18 that reflect the business-to-business negotiations
19 and represent a variance from the rules
20 implemented by the FCC to implement Section
21 251(c)(2)? Is that a possibility?

22 MR. CHIARELLI: Calls for

1 speculation.

2 MR. ANDERSON: I think he is saying
3 because the rules don't identify that as a model
4 that it doesn't exist.

5 JUDGE HAYNES: Sustained.

6 MR. ANDERSON: I didn't hear your
7 ruling.

8 JUDGE HAYNES: Sustained.

9 BY MR. ANDERSON:

10 Q. Please turn to page 52. 1199 to
11 1228 are the line numbers. There you quote a
12 portion of the Connect America Fund Order in
13 support of your assertion that carriers are
14 allowed to carry multiple types of traffic over
15 Interconnection Facilities, correct?

16 A. Yes.

17 Q. Would you agree that there is
18 nothing in the passage that you quote that states
19 that a 251(c)(2) Interconnection Facility being
20 used to carry telephone exchange service or
21 exchange access service can be used to carry
22 backhaul traffic?

1 A. No. And, again, Sprint is not
2 proposing to do that.

3 Q. So your answer is I'm correct that
4 there is nothing in that passage that would
5 indicate that a 251(c)(2) Interconnection Facility
6 can be used to carry backhaul traffic, is that
7 correct?

8 A. That's correct.

9 Q. This is my last issue. This will
10 just be a few minutes. I want to talk to you
11 about issue 49 for a second. So if you can please
12 refer to page 62 of your testimony.

13 MR. CHIARELLI: Sixty-two?

14 MR. ANDERSON: Sixty-two.

15 BY MR. ANDERSON:

16 Q. There you discuss an interpretation
17 of transition language proposed by AT&T Illinois
18 in Attachment 2 Section's 1.2.1, 1.2.1.1,
19 1.2.1.1.1, 1.2.1.1.2 and 1.2.1.2, correct?

20 A. Are you on my rebuttal?

21 Q. Yes.

22 A. I'm sure it says that. Can you

1 point me to exactly where you're reading from?

2 Q. Well, I mean you're talking about
3 AT&T Illinois' transition language and I'm trying
4 to identify -- just make the record clear. What
5 specific proposed transition language are you
6 discussing? And based on your attachment, I
7 assume those were the provisions that you're
8 talking about.

9 A. Yes.

10 Q. Thank you. Now, would you agree
11 that AT&T Illinois has not made any substantive
12 changes to this proposed language since December
13 5th, 2012, when you submitted your direct
14 testimony?

15 A. I really don't know.

16 Q. You don't have any opinion -- you
17 are not responding in this testimony to any
18 perceived change in the proposal made by AT&T
19 Illinois, correct?

20 A. That's correct, yes.

21 Q. In fact, so this testimony would
22 have been testimony you could have presented on

1 December 5th in response to the language of AT&T's
2 proposed transition language, those same sections,
3 correct?

4 MR. CHIARELLI: Objection. It does
5 not take into consideration anything that occurred
6 prior to the time that this was filed with respect
7 to staff's interpretation of the transition issue.

8 MR. ANDERSON: Well -- okay.

9 BY MR. ANDERSON:

10 Q. Is it correct that in your direct
11 testimony you did not make any comments regarding
12 AT&T Illinois' proposed transition language as
13 included in the section numbers that we agreed you
14 were talking about here just a few minutes ago?

15 A. That's correct.

16 Q. Okay. And you did not propose any
17 modifications to that transition language in your
18 direct testimony, correct?

19 A. That's correct.

20 Q. The modifications you've proposed to
21 that language in your rebuttal testimony are
22 modifications you're proposing for the first time

1 today or as of the filing of your rebuttal
2 testimony, correct?

3 A. Yes.

4 Q. Now, in your rebuttal testimony, you
5 also propose language for Section 3.5.1 of
6 Attachment 2, correct?

7 A. Yes.

8 Q. And, again, you did not propose that
9 language in your direct testimony, correct?

10 A. Yes.

11 Q. This is not language that was even
12 proposed by Sprint prior to your direct testimony,
13 correct?

14 A. That's correct.

15 Q. Okay. Now, if you refer to lines
16 1446 to 1448, I just want a clarification here.
17 Among other concerns you have is that you state
18 that as you read AT&T's transition language it
19 would, quote, also require that all transitioning
20 be completed before Sprint received any benefits
21 attributable to TELRIC pricing, end quote, do you
22 see that?

1 A. Yes.

2 Q. Would you point to me the language
3 or the passages in AT&T Illinois' proposed
4 transition language which you believe would
5 actually require that all transitioning be
6 completed before Sprint receives any benefit
7 attributable to TELRIC pricing?

8 A. Right now, I can't point to a
9 specific language.

10 Q. Okay. Thank you. Now, would you
11 refer to -- go over to your schedule or Exhibit
12 RGF-6.1 and --

13 A. Sorry. 6.1?

14 Q. 6.1. It's the schedule or
15 exhibit -- I'm sorry. 6.2. I apologize. 6.2.
16 It's your proposed transition language related
17 edits. And, in particular, I want to ask you
18 about your proposed language for 6.5.1. I'm
19 trying to understand what the purpose of this
20 language is.

21 MR. CHIARELLI: Karl? I think you
22 misspoke. I heard you said 6 --

1 MR. ANDERSON: 3.5.1. I'm sorry.

2 MR. CHIARELLI: Thank you.

3 BY MR. ANDERSON:

4 Q. There you -- your proposed language
5 would say "Notwithstanding anything to the
6 contrary in this agreement, Sprint may always
7 purchase facilities pursuant to the applicable
8 AT&T Illinois interstate or intrastate access
9 tariff to be used for any purpose including, but
10 not limited to as Interconnection Facilities
11 subject to the shared SFF -- which I think is
12 Shared Facility Factory arrangement, right?

13 A. Yes.

14 Q. -- arrangement under this
15 agreement." I just want to clarify as
16 Interconnection Facilities with a capital I and a
17 capital F are defined I believe they're defined in
18 a way that would indicate that they're facilities
19 to which Sprint would obtain TELRIC pricing,
20 correct, and what I'm trying to -- I'm just trying
21 to clarify.

22 You're not stating that this

1 language is intended to give you the ability to
2 purchase facilities for any purpose from an
3 intrastate access tariff and have them be priced
4 at TELRIC, that's not your intention, correct?

5 A. That's correct.

6 MR. ANDERSON: I have no further
7 questions.

8 JUDGE HAYNES: Staff, do you have
9 cross?

10 MR. LANNON: Thank you. By the way,
11 we are -- thanks to Mr. Anderson's comprehensive
12 cross, we are drastically cutting down our time.

13 C R O S S E X A M I N A T I O N

14 BY MR. LANNON

15 Q. Welcome to Chicago, Mr. Fararr.

16 A. Thank you.

17 Q. I'm Mike Lannon representing staff.

18 I wish you hadn't brought this Kansas blizzard
19 weather with you, but I suppose there's nothing
20 you can really do about that.

21 Can you turn to your rebuttal?

22 Page 16 and I'm going to ask you a series of

1 questions prompted by just this one sentence that
2 starts on line 361 "To my knowledge, no carrier
3 has installed such a switch in more than ten
4 years," did I read that right?

5 A. Yes.

6 Q. And by such a switch, you mean a
7 digital circuit switch, right?

8 A. Yeah, a circuit-based switch,
9 correct.

10 Q. Do you know what type of switch
11 Neutral Tandem has in its network now?

12 A. No, I don't.

13 Q. So you couldn't describe them?

14 A. No.

15 Q. And you wouldn't know when they were
16 purchased I take it?

17 A. No.

18 Q. I'm going to ask the same three
19 questions regarding a number of other different
20 CLEC's. If you can shorten the process by telling
21 me if you know of any CLEC -- the nature of any
22 CLEC switches, that might be helpful. Otherwise,

1 I'll just go through them real quick.

2 A. Well, I cannot give you any specific
3 information about any specific CLEC. So if
4 that --

5 Q. So you don't know what type of
6 switches Level Three, for instance, has?

7 A. No.

8 Q. Peerless?

9 A. No.

10 Q. XO?

11 A. No.

12 Q. Big River?

13 A. No.

14 Q. Broadwing?

15 A. No.

16 Q. Common Point?

17 A. No.

18 Q. BullsEye?

19 A. No.

20 Q. Are you familiar with any switches
21 used by any carriers to provide transit service in
22 Illinois?

1 A. Not specifically, no.

2 MR. LANNON: That's all I have.

3 JUDGE HAYNES: Okay. Redirect?

4 MR. CHIARELLI: None.

5 JUDGE HAYNES: Okay. Thank you,

6 Mr. Farrar. So before we go onto the next witness
7 scheduling-wise we have to stop at 5:00 p.m., is
8 that correct?

9 MR. LANNON: The audio to
10 Springfield will be shut down at 5:00. That
11 doesn't necessarily stop us all together.

12 MR. ANDERSON: May I make a
13 suggestion? I'm looking at the time estimates for
14 cross. It seems it might make sense to take our
15 witnesses out of order. In order to try to get a
16 witness on and off the stand today, I would
17 suggest perhaps Kent Currie. My understanding is
18 staff has indicated it has no cross of Dr. Currie,
19 that Sprint identified 30 minutes. So that might
20 be a good use of our time and also would free up
21 Dr. Currie to go about his normal life if we were
22 to finish him up today.

1 JUDGE HAYNES: I guess that's up to
2 Sprint if Sprint is ready.

3 MR. CHIARELLI: If you give me,
4 like, five minutes just because some things delve
5 on others and if you take them out of order you
6 have to move things around, but if you give me
7 about five minutes to get squared away.

8 JUDGE HAYNES: Sure. Five minutes
9 and we'll call Dr. Currie.

10 (Whereupon, a break was taken
11 after which the following
12 proceedings were had.)

13 JUDGE HAYNES: Let's go back on the
14 record. Dr. Currie, please raise your right hand.

15 WHEREUPON:

16 KENT CURRIE
17 called as a witness herein, having been first duly
18 sworn, deposeth and saith as follows:

19 JUDGE HAYNES: Thank you. Go ahead
20 and introduce your witness, please.

21 MR. ANDERSON: Thank you.

22

1 D I R E C T E X A M I N A T I O N

2 BY MR. ANDERSON

3 Q. Would you please state your full
4 name and address for the record?

5 A. My name is Kent Currie and my
6 address is -- my business address is 208 South
7 Akard, Dallas, Texas 75202.

8 Q. Would you state by whom you are
9 employed and in what position?

10 A. I am a financial analyst in the cost
11 analysis group and it's part of AT&T Services.

12 Q. And in the course of your duties,
13 did you cause certain rebuttal testimony to be
14 prepared for purposes of this proceeding?

15 A. Yes, I did.

16 Q. And I now show you a document --
17 refer you to a document which has been marked for
18 identification as AT&T Illinois Exhibit 6.0
19 entitled Rebuttal Testimony of Dr. Kent A. Currie
20 and ask if this is a copy of the rebuttal
21 testimony which you caused to be prepared?

22 A. Yes, it is.

1 (Document marked as AT&T
2 Illinois Exhibit No. 6.0 for
3 identification.)

4 BY MR. ANDERSON:

5 Q. Do you have any corrections to make?

6 A. No, I do not.

7 MR. ANDERSON: At this time, I would
8 move for the admission into evidence of AT&T
9 Illinois Exhibit 6.0 and make Dr. Currie available
10 for cross-examination.

11 MR. CHIARELLI: No objection.

12 JUDGE HAYNES: Was this previously
13 filed on E-docket?

14 MR. ANDERSON: This was, yes.

15 JUDGE HAYNES: On February 13th?

16 MR. ANDERSON: Yes.

17 JUDGE HAYNES: Staff, do you have
18 any objections?

19 MR. LANNON: No.

20 JUDGE HAYNES: Exhibit 6.0 as
21 previously filed on E-docket is admitted into the
22 record. Cross examination?

1 C R O S S E X A M I N A T I O N

2 BY MR. CHIARELLI

3 Q. Hello, Dr. Currie.

4 A. Good afternoon.

5 Q. If I can direct your attention to
6 page four, line 73 and 74 of your rebuttal
7 testimony and do you see where you state "AT&T
8 Illinois' current voice network contains no switch
9 using data, quote, packets, end quote, for
10 handling voice traffic to or from other PSTN
11 switches."

12 Then you have this footnote two
13 reference. The footnote goes onto say "Of course,
14 voice traffic in host/remote umbilical
15 arrangements often uses different formats than
16 that used for voice traffic between other switch
17 configurations" and my question is not
18 withstanding the fact that AT&T Illinois may not
19 have any switches that interconnect with the PSTN
20 that utilized the soft switch technology, do they
21 use soft switch technology in any aspect of the
22 network?

1 A. AT&T Illinois?

2 Q. Yes, sir.

3 A. They do use a signal soft switch.

4 Q. Can you explain what that is?

5 A. It was a host upgrade. It was a
6 tandem switch that was upgraded to a host.

7 Q. And where is that switch located?

8 A. I don't -- it's in the Chicago area.
9 I don't remember the specific.

10 Q. Is that switch used for the exchange
11 of -- Strike that.

12 Is that switch used for the
13 routing of traffic in AT&T's network to handle
14 calls between -- to AT&T end users?

15 A. I think that question would be
16 better answered by Mr. Albright. I think I know
17 the answer, but I'm not the network witness. I
18 need to know enough to be able to analyze costs,
19 not to be able to know exactly how every switch is
20 used.

21 Q. Fair enough. Do you know aside from
22 that scenario that you just described that just

1 pertains to one tandem switch within Illinois, is
2 that correct?

3 A. That's correct.

4 Q. Do you know does AT&T Illinois have
5 a contractual relationship with any affiliate of
6 AT&T that utilizes soft switch technology for the
7 purpose of AT&T Illinois providing telephone
8 exchange service to any of AT&T Illinois' end
9 users?

10 A. I don't know.

11 Q. You don't know. Do you have any
12 familiarity with AT&T Illinois' U-verse network?

13 A. Sure.

14 Q. Do you know whether or not the AT&T
15 U-verse network utilizes soft switch technology
16 whether it's owned by AT&T Illinois or not?

17 MR. ANDERSON: I'm going to object
18 to that question as being beyond the scope of
19 Dr. Currie's testimony and also its relevance to
20 the extent that he is being asked whether some
21 affiliate may own such a switch. I would also
22 note that the topic of IP-to-IP interconnection,

1 the relationship between AT&T Illinois and
2 affiliates with respect to the type of traffic he
3 is talking about is also the subject of
4 Mr. Albright's testimony. So I object on the
5 grounds of beyond the scope of Dr. Currie's
6 testimony and not relevant.

7 MR. CHIARELLI: This is absolutely
8 within the scope of his testimony in that he has
9 testified that AT&T does not utilize soft switch
10 technology. He has pointed to the Connecticut
11 decision which he claims rejected Mr. Fararr's
12 position that soft switch technology should be
13 used in the Commission order to the extent the
14 Commission is inclined to order a TELRIC cost
15 study that it should be based on a soft switch
16 technology. It goes directly to the heart of his
17 testimony.

18 JUDGE HAYNES: The objection is
19 overruled.

20 MR. CHIARELLI: I believe there is a
21 question pending. I don't recall it. Could you
22 please read it back?

1 (Whereupon, the record was read
2 as requested.)

3 BY THE WITNESS:

4 A. When you say soft switch technology,
5 that phrase is not something that I exactly use.
6 What do you mean?

7 BY MR. CHIARELLI:

8 Q. Packet switching technology.

9 A. I haven't studied and I don't know
10 the specific switches that our U-verse affiliate
11 uses. So it would only be conjectural on my part.
12 I do not know with specificity of what they're
13 using.

14 Q. Is the cost function analysis that
15 you performed limited only to the ILEC network?

16 A. No.

17 Q. And in order to --

18 MR. ANDERSON: I apologize. I just
19 want a clarification. Can I have the question
20 read back, please? The previous question read
21 back.

22

1 (Whereupon, the record was read
2 as requested.)

3 MR. ANDERSON: Just for
4 clarification, you meant the analysis he discusses
5 in his testimony?

6 MR. CHIARELLI: Actually, I wouldn't
7 have said performed. It would just be the
8 generic. The cost analysis that he performs in
9 his job function, is it limited just to the ILEC,
10 I-L-E-C, network.

11 BY MR. CHIARELLI:

12 Q. And I think your answer was no?

13 A. That's correct.

14 MR. CHIARELLI: Are you okay?

15 MR. ANDERSON: Yes, I just wanted a
16 clarification.

17 BY MR. CHIARELLI:

18 Q. Do you have to have for purpose of
19 performing your job a working understanding of the
20 various network functions that are performed in
21 the different AT&T networks for which you provide
22 cost analysis?

1 MR. ANDERSON: And I'm going to
2 object on the grounds Dr. Currie's testimony
3 relates to the issue of AT&T Illinois' network and
4 what switches are used in AT&T Illinois' network
5 and I submit that switches used by some other AT&T
6 entity is not relevant and also is beyond the
7 scope of Dr. Currie's testimony.

8 JUDGE HAYNES: Overruled.

9 MR. CHIARELLI: I'll need to ask you
10 to read it back, please?

11 JUDGE HAYNES: We'll never get done
12 if we keep having to repeat every question.

13 MR. CHIARELLI: I understand.

14 (Whereupon, the record was read
15 as requested.)

16 BY THE WITNESS:

17 A. For the portions of AT&T's network
18 that we study, of course, I need to know that.
19 However, we do not study and have not studied any
20 portions of the U-verse network.

21 BY MR. CHIARELLI:

22 Q. Just for clarification. I want to

1 show you a document -- this is a blow up of
2 Mr. Albright's, I believe it is, CCA-9, which is
3 in the record. Have you ever seen a network
4 depiction of the U-verse network?

5 A. I've seen Mr. Albright's testimony
6 so I've seen this before, yes.

7 Q. What is your understanding of this
8 symbol that is represented on CCA-9? I'm pointing
9 to the box that represents the functions performed
10 by AT&T Corp?

11 MR. ANDERSON: Again, I do not
12 understand what this has to do with cross
13 examining on a schedule presented by Mr. Albright.

14 MR. CHIARELLI: And my response is
15 he's represented that AT&T does not utilize any
16 soft switch technology and, you know, to the
17 extent this picture reflects that they utilize
18 soft switch technology to provide telephone
19 exchange service to their end users, it's
20 something I think I'm entitled to ask him about
21 with respect to is it utilized within the AT&T
22 ILEC network.

1 MR. ANDERSON: You just pointed to a
2 particular --

3 JUDGE HAYNES: You have to talk into
4 your microphone.

5 MR. ANDERSON: I'm sorry.

6 JUDGE HAYNES: You're good.

7 MR. ANDERSON: And if I understand
8 the question you just asked Dr. Currie a question
9 about a part of the graph that clearly indicates
10 that it relates to the AT&T Corp network and,
11 again, this is not what Dr. Currie is testifying
12 about. He is not testifying about the network of
13 other companies.

14 MR. CHIARELLI: Sprint is seeking to
15 have the Commission order that AT&T ILEC do a cost
16 study based upon current technology to establish a
17 current TELRIC-based rate and as he has testified
18 in his rebuttal based upon the Connecticut case,
19 you know, you don't use soft switches if you don't
20 have it being used any place in your network. The
21 point I'm trying to get to is does he have
22 familiarity with this soft switch or the packet

1 switching technology that is used for the benefit
2 of AT&T ILEC to provide telephone exchange service
3 to their own end users and I'll tell you
4 ultimately I'm going to ask him the question "Do
5 you still charge recip comp for CLEC's" and won't
6 that require him to do a cost study for that
7 entire chain when he is trying to determine recip
8 comp for the AT&T ILEC network.

9 JUDGE HAYNES: Overruled. But do
10 you remember what the question was exactly,
11 Mr. -- Dr. Currie?

12 THE WITNESS: No, I don't.

13 MR. CHIARELLI: That one I remember.

14 JUDGE HAYNES: Okay.

15 BY MR. CHIARELLI:

16 Q. With respect to Mr. Albright's
17 depiction of the U-verse network, do you have a
18 working knowledge for the purposes of performing a
19 cost analysis as to what this piece of equipment
20 represents?

21 A. And as my testimony talks about the
22 quote that, in fact, you looked at my testimony

1 deals with AT&T Illinois' network. I do not know
2 the details associated with that part of the
3 network you have depicted in that diagram to be
4 able to conduct any cost work. I do not have the
5 cost information. I do not have the details that
6 I do have for circuit switches today.

7 Q. I understand you may not have the
8 details of the cost. My question is do you know
9 what functionality that piece of equipment
10 performs?

11 A. I don't know that portion of the
12 network and I would be speculating. That's
13 something you need to ask Mr. Albright. I have
14 not studied that and we have not studied any
15 portion of the AT&T Corp portion of the network.

16 Q. So no analysis has been done within
17 AT&T, the ILEC, to determine what cost they are or
18 are not saving by the use of technology provided
19 by AT&T Corp?

20 MR. ANDERSON: Objection.
21 Argumentative.

22 JUDGE HAYNES: Overruled.

1 BY THE WITNESS:

2 A. Our group hasn't done any cost work.
3 We're the primary group that does cost of service
4 work and I'm not aware of any costs that we've
5 done associated with the AT&T Corp portion of the
6 network.

7 BY MR. CHIARELLI:

8 Q. Are you generally -- do you have any
9 general working understanding as to what you would
10 expect the cost to be, higher or lower, if you
11 were to utilize packet switching for a tandem
12 switch as opposed to digital switching within the
13 AT&T ILEC network?

14 A. No.

15 Q. Do you agree with the general
16 statement to the effect converged IP networks are
17 more dynamic, versatile, resilient and cost
18 efficient than Legacy TDM networks?

19 A. In some circumstances, that's true.

20 Q. You would agree that's AT&T's
21 position as it represents the benefits of packet
22 switching to the FCC, wouldn't you?

1 MR. ANDERSON: Are you referring to
2 a specific document there?

3 MR. CHIARELLI: I'm asking him
4 whether or not he is aware of AT&T's positions
5 represented to the FCC regarding IP packet
6 switching technology.

7 BY THE WITNESS:

8 A. In what proceeding and could you
9 show it to me?

10 BY MR. CHIARELLI:

11 Q. Yes, sir. This is the petition that
12 is attached and has been admitted into evidence as
13 part of Mr. Burt's testimony.

14 MR. ANDERSON: Can you show it to
15 me?

16 MR. CHIARELLI: It's JRB 1.5. This
17 is the AT&T petition filed with the FCC on
18 November 7th, 2012, to launch a proceeding
19 concerning the TDM-to-IP transition and
20 specifically what I was referring to was the
21 language on page four.

22

1 BY THE WITNESS:

2 A. Yes, I am generally familiar with
3 this and this is a petition in which we want to
4 transition from a TDM network to an all-IP network
5 and those things are likely consequences when we
6 complete that transition, but the petition
7 indicates there's a lot of things that we need to
8 do to get from here to there.

9 BY MR. CHIARELLI:

10 Q. Yes, sir. I appreciate that. Are
11 you aware of any discussions within AT&T or any of
12 its affiliates regarding a target date by which
13 AT&T would like to see that transition completed?

14 A. I'm not aware of anything in the
15 course of my work and I don't recall reading it in
16 a petition. There may or may not be. I just
17 don't recall any.

18 Q. Are you aware of whether or not
19 there is any intent among the AT&T ILEC's to
20 either install or intentionally avoid installing
21 soft switches that utilize packet switching within
22 the AT&T ILEC networks?

1 A. I think we have a policy, and
2 Mr. Albright could state it more clearly, that we
3 prefer not to have to place any kind of switch
4 until the issues associated with our TDM-to-IP
5 petition have been resolved because of the
6 uncertainties, but that doesn't mean we haven't
7 had, for example, some tandem switching -- excuse
8 me -- some TDM, that's capital T, capital D,
9 capital M, switches placed in the last five years.
10 We have.

11 Q. If I can direct your attention to
12 page four, lines 87 and 90 of your testimony.

13 A. I'm sorry. What line again?

14 Q. Eighty-seven through 90 on page
15 four. And as I read it you appear to imply that
16 the Connecticut PUC somehow concluded that
17 Mr. Fararr made an unsupported argument and would
18 you agree with me that in reality the Connecticut
19 PUC was troubled by the inconsistency between
20 AT&T's position on the issue of soft switch
21 technology in Connecticut and the positions
22 proffered at the FCC and other states regarding

1 the use of soft switch technology?

2 A. I don't recall.

3 Q. You don't recall. You are familiar,
4 sir, with the Connecticut decision that you cited
5 in your testimony, correct?

6 A. I'm generally familiar with it.

7 MR. CHIARELLI: May I approach the
8 witness?

9 JUDGE HAYNES: Yes. Can I direct
10 your attention to page 19. It's underneath the
11 section marked number two soft switches and if
12 you'll initially just read to yourself the
13 paragraph that begins "The department is troubled
14 by the inconsistency between AT&T's position on
15 the issue of soft switch technology in Connecticut
16 and the positions proffered at the FCC and in
17 other states" and when you're done reading that
18 paragraph if you'd let me know, please.

19 MR. ANDERSON: Joe, would you refer
20 me where you're reading?

21 MR. CHIARELLI: It's on page 19
22 paragraph two, soft switches, the second full

1 paragraph under that heading.

2 BY THE WITNESS:

3 A. How far do you want me to read? The
4 whole section?

5 BY MR. CHIARELLI:

6 Q. That paragraph is fine.

7 A. Just that first full paragraph?

8 Q. Yes, sir.

9 A. I've read it.

10 Q. That second paragraph under
11 paragraph two, do you see that?

12 A. Yes.

13 Q. Does that refresh your recollection
14 that the department had some real problems with
15 the inconsistent positions being taken by AT&T in
16 front of the FCC versus in Connecticut?

17 A. Well, I think the order speaks for
18 itself, but obviously it's the case that we have
19 been advocating not necessarily soft switches, but
20 the existing TDM network needs to transition to a
21 packet network and soft switches may or may not be
22 a part of the ultimate end of that transition.

1 Q. Okay. So assuming the end of the
2 transition, the TDM network is gone, is there yet
3 some other category of switches other than soft
4 switches versus digital switches that is out
5 there?

6 A. Well, in a pure IP world, you know,
7 voice can just look like an application where all
8 you have is routers and they're doing switching
9 like functions, but an IP network doesn't
10 necessarily look anything like the network we have
11 today and these things we're talking about are not
12 the circumstances that exist today, but are things
13 that we would like to see in the not too distant
14 future, but they are currently forward-looking
15 choices.

16 Q. So, in fact, what you just mentioned
17 there that's why they're referred to as soft
18 switches because we're not really talking about
19 switches in the sense of TDM digital switches,
20 we're talking about routers, we're talking about
21 gateways, we're talking about things that actually
22 transfer data by and among different points. Is

1 that a fair description of what IP-to-IP
2 technology is?

3 A. Well, you added soft switches into
4 that. Now, I really think that some of those
5 details are more appropriate for Mr. Albright, but
6 it's the case that soft switches have a lot of
7 things added onto them that aren't just the pure
8 router.

9 SPRINGFIELD: Judge Haynes, I'm
10 sorry to interrupt, but staff -- we're going to
11 take down the connection now.

12 JUDGE HAYNES: Okay. Thank you. Go
13 ahead.

14 BY MR. CHIARELLI:

15 Q. When you use the words "in the near
16 future," do you recall just saying that?

17 A. Yes.

18 Q. What to you is the near future?

19 A. After the FCC has finished these
20 proceedings so that the uncertainties that I talk
21 about in my testimony can be resolved to a greater
22 degree. My experience with the FCC is that those

1 things happen over many, many, many years and so I
2 have no way to know.

3 Q. Take on a life of their own?

4 A. Obviously, AT&T would like it to
5 happen sooner than later, but the reality is we're
6 probably, you know, five to ten years out, but
7 that is just my experience on some of these and
8 others seem to take forever.

9 Q. So if it's five to ten years out
10 with respect to your testimony on the transit rate
11 and it's not appropriate to use a soft switch
12 technology to perform a new updated study, would
13 it be AT&T's intent that we should just stick with
14 that ten year old rate for another five to ten
15 years?

16 A. We should stick with it while the
17 circuit switching is still the most efficient
18 technology that is currently available that we
19 would deploy in our network, which it is.

20 Q. Is it your position that if you did
21 a forward-looking TELRIC cost study based upon
22 prices for digital switches today, that you're

1 going to come up with a rate that is equal to or
2 higher than the rate that is charged today?

3 A. That isn't what I said. I said I
4 would still use circuit switching as a
5 forward-looking technology today. At some point
6 in the future, that may change and will likely
7 change.

8 Q. I appreciate that, but the question
9 I asked, do you believe if you did a TELRIC-based
10 cost study today to establish a current
11 TELRIC-based transit rate that it's still going to
12 be 0.005 as opposed to something much lower as
13 demonstrated in the other AT&T states where you
14 have done TELRIC cost studies?

15 A. The answer is I don't know.

16 Q. You won't know until you do one,
17 right?

18 A. Well, ultimately the answer is you'd
19 never know the specific number, but there are some
20 forces that would cause costs to go up, some
21 forces that would cause costs to go down. For
22 example, labor which is a nontrivial portion of

1 costs have gone up over the -- since the time we
2 did our last transit cost study have gone up
3 significantly for Illinois.

4 Q. If this Commission was to determine
5 that AT&T ILEC had started incorporating soft
6 switch packet switching technology into its
7 network through the services that they obtained
8 from AT&T Corp, do you believe that such
9 incorporation would be a basis to include or
10 exclude packet switching technology in the
11 performance of a TELRIC-based rate?

12 A. I think it would only be appropriate
13 to include soft switches if AT&T Illinois were
14 generally going to deploy soft switches on a
15 general basis and it could include soft switches
16 and circuit switches. It may include both, but my
17 understanding is that we are not deploying soft
18 switches in AT&T Illinois' network on a general
19 basis today.

20 Q. Okay. So without accepting what you
21 said, but putting that issue aside for a moment
22 let's assume that the Commission determined that

1 there was some hybrid. What I want to get to is
2 the point do you believe if the Commission
3 determines there is hybrid use involved that the
4 TELRIC study has to be based on a hybrid approach
5 as opposed to a one hundred percent packet
6 switching approach?

7 A. Today, I would do neither one of
8 those. I would do a one hundred percent circuit
9 today.

10 Q. And so let me ask it this way. If
11 AT&T CLEC was challenging the cost study of an
12 ILEC and that ILEC had started using soft switch
13 technology in a given state, would AT&T CLEC's
14 position be that the ILEC should or should not use
15 soft switch technology as the basis for performing
16 a TELRIC-based cost study?

17 A. You didn't give me sufficient
18 information to decide one way or the other.

19 Q. All right. Let me do it this way.
20 Are you familiar with the proceeding -- let me ask
21 it. Are you familiar with a gentleman by the name
22 of David J. Barch, B-A-R-C-H, who works out of, I

1 believe, St. Louis' cost analysis group?

2 A. Well, he is no longer located in
3 St. Louis, but, yes, I know Mr. Barch.

4 Q. Is he still at AT&T?

5 A. Yes, he is.

6 Q. Where is he located?

7 A. In Dallas.

8 Q. With you?

9 A. No, he recently changed jobs.

10 Q. Did you all used to work in the same
11 group?

12 A. Yes.

13 Q. So you know him real well?

14 A. Yes.

15 Q. And would -- is there somebody at
16 AT&T that reviews testimony of people such as
17 yourself before that testimony is filed to make
18 sure it is not inconsistent with AT&T's general
19 corporate positions on any given issue?

20 A. The normal review process doesn't
21 have a single group or person that would do that.
22 You know, the cost organizations that I'm in, of

1 course, would be cognizant of that and we would,
2 in general, bring issues to the relevant people
3 usually in the regulatory organization to try to
4 make sure that there wouldn't be inconsistencies
5 across dockets.

6 Q. Do you know were you involved in any
7 review of David Barch's testimony that was filed
8 in a case involving AT&T and Embarq as the ILEC in
9 2009 in which Mr. Barch took the position that
10 Embarq should utilize 100 percent packet switching
11 technology in a TELRIC study because Embarq had
12 started utilizing some packet switching technology
13 in the State of Kansas?

14 A. I have only a general recollection
15 of that. I don't know if I reviewed his testimony
16 before he filed it, but I'm certain I've seen it.

17 Q. Was my description of his testimony
18 fair?

19 A. I don't recall the details well
20 enough to know.

21 MR. CHIARELLI: Your Honor, could we
22 mark this for purposes of identification as Sprint

1 Cross, I believe this may be, No. 2.

2 JUDGE HAYNES: Yes.

3 (Document marked as Sprint Cross
4 Exhibit No. 2 for
5 identification.)

6 BY MR. CHIARELLI:

7 Q. Mr. Currie, I'd like to direct your
8 attention -- does your looking at that testimony
9 refresh your recollection regarding, one, either
10 the existence of this proceeding and/or
11 Mr. Barch's participation in it?

12 A. It refreshes my memory of the
13 proceeding, but the testimony itself I'm not -- I
14 don't have any specific remembrances.

15 Q. Fair enough. Can I point your
16 attention to page 27, lines 23 through page 28,
17 line 2?

18 A. Page 27 what lines?

19 Q. Beginning on line 22 the end of the
20 sentence and what it specifically -- the sentence
21 that reads "Given that Embarq already has packet
22 switching within Kansas, naturally the question

1 needs to be asked as to what forward-looking cost
2 efficiencies may be found were Embarq to cost
3 model its Kansas network as entirely packet
4 switched. This is irrespective of the fact that
5 Embarq may still have digital circuit switches
6 embedded in Kansas." Have I read that correctly?

7 A. I'm sorry. When you started
8 reading, I apparently was looking at the wrong
9 place.

10 Q. Page 27. It's beginning at the line
11 22 at the very end of the sentence.

12 A. I was apparently looking at line 21.

13 Q. Sure. If you want to follow along,
14 it reads "Given that Embarq already has packet
15 switching within Kansas, naturally the question
16 needs to be asked as to what forward-looking cost
17 efficiencies may be found were Embarq to cost
18 model its Kansas network as entirely packet
19 switched. This is irrespective of the fact that
20 Embarq may still have digital circuit switches
21 embedded in Kansas." Have I read that correctly?

22 A. Yes.

1 Q. Is it AT&T's position at least as of
2 2009 that if an ILEC is going to perform a cost
3 study and it started utilizing packet switching
4 technology in a state, that the cost study should
5 be based upon an entirely packet switched network?

6 A. I think you need to look at the
7 entire response that Mr. Barch made there in which
8 he indicates there was an example that at least in
9 one Embarq state that it appears -- I don't know
10 the facts of this case, but my reading of this,
11 my understanding of this, there is at least one
12 state in which Embarq is only deploying packet
13 switches and not doing any new circuit switches.
14 That is not the case in the AT&T states. We have
15 that -- over the last recent years, we have -- not
16 very many, but we have placed some brand new
17 circuit switches that replaced the existing
18 switches.

19 Q. So if I understand what you just
20 said, you think it's significant -- you think it's
21 a significant fact that in Mr. Barch's testimony
22 was where he indicated that Embarq actually used

1 packet switching a hundred percent in a given
2 state?

3 MR. ANDERSON: I object at this
4 point. Dr. Currie says he is not --

5 JUDGE HAYNES: Can you turn your mic
6 on?

7 MR. ANDERSON: I'm sorry.
8 Dr. Currie didn't participate in the preparation
9 of his testimony.

10 JUDGE HAYNES: You have to talk into
11 it, too. I'm sorry. I can't hear you.

12 MR. ANDERSON: Sorry. I really
13 object. This is beyond the scope of Dr. Currie's
14 testimony. It's really asking about a document
15 that Dr. Currie is not thoroughly familiar with.
16 Dr. Currie has just indicated based on the reading
17 of the passage that the question and answer does
18 not appear to support the proposition that
19 Sprint's counsel presented in his questions, but I
20 really think it's inappropriate to take
21 Dr. Barch -- the testimony he is not familiar
22 with -- I'm sorry?

1 Mr. Barch may have been familiar
2 with it. I'm sorry. The testimony from which
3 Dr. Currie is not familiar with and ask him
4 questions about testimony in another proceeding by
5 another witness which he is being shown for the
6 first time today here. So I think it is an
7 inappropriate cross-examination.

8 MR. CHIARELLI: My response is he
9 has indicated he knows Mr. Barch, he's indicated
10 he is familiar with the proceeding, he has
11 indicated he is familiar with the testimony,
12 albeit not all the details, that this is an AT&T
13 Corp position that was taken. His cost study
14 group performs the function of representing the
15 AT&T positions and I think, quite frankly, the
16 next question is going to be to address the very
17 point that he just relied upon that, you know,
18 Mr. Barch eluded to the existence of a hundred
19 percent network in one of the states and that in
20 the next -- he clarifies it in the next rebuttal.
21 I think it's directly on point.

22 MR. ANDERSON: Well, the other thing

1 I want to point out is this testimony has nothing
2 to do with transit costs, which is the issue being
3 addressed by Dr. Currie. It apparently was a
4 proceeding conducted to investigate intrastate
5 access charges of the Embarq ILEC entities and I
6 think the relevance is also -- or the irrelevance
7 is also indicated by the fact that, in fact,
8 testimony or evidence shows that Embarq in at
9 least one of the states had a network comprised
10 entirely of soft switches. So I don't think this
11 is relevant.

12 MR. CHIARELLI: And the response is
13 the very next surrebuttal that Mr. Barch files
14 indicates that it's besides the point that Embarq
15 had 100 percent switching in a state and the
16 significance --

17 JUDGE HAYNES: Overruled.

18 MR. CHIARELLI: Pardon?

19 JUDGE HAYNES: Overruled.

20 MR. CHIARELLI: Thank you.

21 MR. PFAFF: At this time, I'm going
22 to approach the witness first.

1 BY MR. CHIARELLI:

2 Q. Before I ask the question.

3 Obviously, I need to set it up and the question is
4 do you agree or disagree with the premise that if
5 an ILEC has started using soft switch technology
6 in a given state the precise extent to which the
7 ILEC does or does not provide for an all packet
8 switched network is beside the point?

9 A. No, I would qualify that. I think
10 that is a little bit too general even if Mr. Barch
11 said it. And I also want to say I'm aware of
12 these testimonies, but as I said I don't recall
13 every reading in recent times. So knowing the
14 details of these when you showed this to me is my
15 first -- I recognize the docket and I know
16 Mr. Barch, but to attribute that I really know the
17 contents of these -- the specific words I think it
18 isn't accurate.

19 Q. I'm not trying to say that you
20 attribute them to you. I'm trying to make the
21 point and this is AT&T's position, at least in
22 this proceeding, and that position is different

1 than what is being taken in the proceeding today.

2 So I'd like to direct your attention to page --

3 MR. ANDERSON: I object to the
4 characterization.

5 MR. CHIARELLI: Fine.

6 BY MR. CHIARELLI:

7 Q. I'd like to direct your attention to
8 page nine, line four through page ten, line 14.

9 A. Give me the reference again. I just
10 got to page 14.

11 Q. Actually, let's shorten up. Let's
12 start on page nine, line 20 through page ten, line
13 one and on page 20, do you see where it begins
14 into the line "The precise extent that Embarq's
15 switch contracts, in their current terms, do or do
16 not provide for an all-packet switch network in
17 Kansas is somewhat besides the point since the
18 deployment of packet technology is already
19 occurring in Kansas for Embarq." Did I read that
20 correctly?

21 A. Yes, I think you read that
22 correctly.

1 Q. Is the point that AT&T as a company
2 took when Embarq had to perform a cost study is
3 that it didn't matter the extent to which Embarq
4 was using soft switch technology in a state, but
5 they still needed to perform a cost study that was
6 based upon a one hundred percent soft switch
7 network?

8 MR. ANDERSON: My objection
9 continues to this exercise of asking Dr. Currie to
10 accept broad generalizations of positions that
11 Mr. Barch may have made based on presenting this
12 testimony of Dr. Currie when he said that he was
13 not familiar with it other than the fact that it
14 was presented in a docket by a person he knows.

15 JUDGE HAYNES: Your observation is
16 noted.

17 MR. CHIARELLI: I didn't hear the
18 ruling.

19 JUDGE HAYNES: It's noted, but
20 overruled.

21

22

1 (Document marked as Sprint Cross
2 Exhibit No. 3.0 for
3 identification.)

4 MR. CHIARELLI: If we can mark this
5 one for identification as Sprint Cross Exhibit No.
6 3. I'd like to go ahead and offer both Sprint
7 Cross Exhibit No. 2 and No. 3.

8 MR. ANDERSON: Objection on the same
9 grounds. Lack of foundation. Lack of relevance.
10 Beyond the scope of Dr. Currie's testimony.

11 MR. CHIARELLI: Sprint's position is
12 it's an admission against interest and he's also
13 indicated that he is familiar with it.

14 JUDGE HAYNES: We're not going to
15 admit the entire documents, Sprint Cross Exhibit's
16 2 and 3. I think that, counsel, you made your
17 point that the statements -- you've gotten into
18 the record the parts that you believe are
19 admissions against AT&T's interest, but the whole
20 document doesn't need to go in and I will give
21 that testimony the weight that it deserves.

22 MR. CHIARELLI: Thank you.

1 BY MR. CHIARELLI:

2 Q. Mr. Currie, do you have a working
3 understanding of the term backhaul?

4 A. Not particularly, no. It's not a
5 word that we use in our cost work.

6 Q. If the Commission were to order AT&T
7 to perform a TELRIC cost study utilizing a
8 completely packet switching network model, how
9 long do you anticipate it would take AT&T to
10 comply with that order?

11 A. I have no idea. We don't have any
12 of the raw data to do such a study in terms of
13 switch prices, for example.

14 Q. Do you know if any of AT&T's
15 affiliates would have that kind of information?

16 A. I don't know, but I do have tandem
17 switch contracts that are current, but I don't
18 have packet switch contracts.

19 Q. And you just don't know what
20 information AT&T Corp may have with respect to any
21 packet switching costs that they may be providing,
22 is that the basis that you're saying you don't

1 know what their costs are?

2 A. I don't know what their costs are
3 and I haven't seen them. So I don't know.

4 MR. CHIARELLI: No more questions.

5 MR. SCHIFMAN: Wait.

6 MR. CHIARELLI: I'd like to mark for
7 identification Sprint Cross Exhibit No. 4.

8 (Document marked as Sprint Cross
9 Exhibit No. 4 for
10 identification.)

11 MR. CHIARELLI: This is the
12 Connecticut contract order that I had previously
13 shown to you. In fact, what you have cited in
14 your testimony as well referring back to
15 Mr. Fararr's testimony.

16 JUDGE HAYNES: Any objection to
17 putting that into the record?

18 MR. ANDERSON: No objection.

19 MR. LANNON: Staff has no objection.

20 JUDGE HAYNES: Sprint Cross Exhibit
21 4 is admitted and all three of those cross
22 exhibits the court reporter will need three copies

1 of. Okay. Staff, did you have cross for this
2 witness?

3 MR. LANNON: No cross, your Honor.

4 JUDGE HAYNES: Okay. Redirect?

5 MR. ANDERSON: May I take a second
6 to consult with counsel?

7 MR. LANNON: I have a housekeeping
8 question for anybody from Sprint. If the
9 Connecticut decision of Sprint Cross 4 --

10 JUDGE HAYNES: Is this on the
11 record?

12 MR. LANNON: No.

13 JUDGE HAYNES: Okay.

14 MR. LANNON: I'm sorry. Are we
15 still on?

16 MR. CHIARELLI: Before we go off the
17 record --

18 JUDGE HAYNES: Okay. We're on the
19 record.

20 MR. CHIARELLI: You had indicated
21 three copies of the decisions even the ones that
22 haven't been admitted just so you'll have three

1 copies?

2 JUDGE HAYNES: Yes. All three of
3 your cross exhibits we need three hardcopies of.
4 Now, we're off the record.

5 (Whereupon, a discussion was had
6 off the record.)

7 JUDGE HAYNES: Back on the record.
8 Do you have redirect for your witness?

9 MR. ANDERSON: I have some brief
10 redirect.

11 R E D I R E C T E X A M I N A T I O N
12 BY MR. ANDERSON

13 Q. Dr. Currie, you were asked a number
14 of questions about soft switches and conducting
15 TELRIC studies for transit service based on soft
16 switch technology and how long it would take and
17 what obstacles one would need to overcome in order
18 to do that. Here is my question.

19 If, in fact, the Commission in
20 this case rules as it has done at least three
21 times in the past that transit service is not
22 required by the 1996 Act and also as it has ruled

1 at least two or three times in the past that
2 transit service is not required to be priced based
3 on a TELRIC cost study, then you would agree we
4 wouldn't have to address any of those questions
5 about how you would determine a TELRIC-based rate
6 for transit service, correct?

7 MR. CHIARELLI: Objection. Calls
8 for a legal conclusion.

9 JUDGE HAYNES: Sustained.

10 MR. ANDERSON: I have no further
11 redirect.

12 JUDGE HAYNES: Thank you,
13 Dr. Currie. Is there anything else today? No.
14 Then we are continued until 9:00 a.m. tomorrow
15 morning.

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